

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X Docket#
CAPOGROSSO, : 18-cv-02710-EK-LB
Plaintiff, :
 :
- versus - : U.S. Courthouse
 : Brooklyn, New York
 :
 :
GELBSTEIN, et al., : March 16, 2021
Defendants : 11:01 AM
-----X

TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE
BEFORE THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

For the Plaintiff:

Mario H. Capogrosso, pro se
21 Shelldrake Place
New Rochelle, NY 10804

For the Defendants:

James M. Thompson, Esq.
Office of the New York State
Attorney General
28 Liberty Street
New York, NY 10005

For Defendant Smart:

David Smart, pro se
2355 Batchelder St.
Apartment 3E
Brooklyn, NY 11229

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1 THE CLERK: Civil Cause for Telephone Status
2 Conference, docket number 18-cv-2710, Capogrosso v.
3 Gelbstein, et al.

4 Will the parties please state your names for
5 the record?

6 MR. CAPOGROSSO: Mario Capogrosso, plaintiff,
7 21 Sheldrake Place, New Rochelle, NY 10804.

8 MR. THOMPSON: Good morning.

9 James Thompson from the Office of the New York
10 State Attorney General for the state defendants and I'm
11 joined by Barbara Montana (ph.) who is in-house counsel
12 for DMV.

13 MR. SMART: Yeah, my name is Mr. David Smart.
14 I'm here on my behalf.

15 THE CLERK: The Honorable Lois Bloom presiding.

16 THE COURT: Good morning, Mr. Capogrosso, Mr.
17 Thompson, Ms. Montana and Mr. Smart.

18 This is a telephone status conference in
19 plaintiff's civil rights action. I last spoke with the
20 parties on May 5th, 2020.

21
22 this matter and Mr. Capogrosso, you wrote to the Court
23 and stated that you had served interrogatories on Mr.
24 Smart before the discovery deadline. However, Mr. Smart

25 never responded

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1 And I directed you to provide the
2 interrogatories to the Court to review and I informed the
3 parties that this would be the one exception to the
4 discovery deadline. That's in ECF entry number 148.

5 I reviewed your interrogatories and I directed
6 Mr. Smart to respond to the interrogatories and I
7 extended his deadline to do so. That's ECF entry number
8 154.

9 When Mr. Smart did not respond, Mr. Capogrosso
10 moved for a default judgment and sanctions against Mr.
11 Smart. That's ECF 157.

12 As Mr. Smart is like Mr. Capogrosso, proceeding
13 pro se, although Mr. Smart is not an attorney like Mr.
14 Capogrosso, I denied the request for default judgment and
15 sanctions and set today's telephone conference to get Mr.
16 Smart to answer the interrogatories orally on the record.
17 That's ECF entry number 159.

18 Mr. Smart has since informed the Court by
19 letter, that he is receiving assistance from the City Bar
20 Justice Center Pro Se project and that he is drafted
21 responses to the interrogatories and the letter was from
22 back in February and he said that they were going to be
23 served.

24 Mr. Capogrosso, have you gotten Mr. Smart's
25 responses to the interrogatories?

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1 MR. CAPOGROSSO: I did receive a document. It
2 is not signed, Judge, and that was one of the comments I
3 wanted to make. It's not signed by defendant Smart. So
4 I don't know who wrote it and whether it's relevant or
5 material. It is also dated after the date that you
6 required defendant Smart to respond by. It's dated
7 February 24th. You required him to respond by February
8 12th.

9 There's also -- it replies with the words
10 "information and belief" and according to -- Black's
11 Dictionary indicates information and belief is
12 information not made on firsthand knowledge but based on
13 secondhand knowledge.

14 THE COURT: So again, as far as the timeliness,
15 Mr. Smart's letter which is ECF 59, requested an
16 extension of time nunc pro tunc to serve his responses
17 and I granted that request at ECF number 162. And I kept
18 today's conference as scheduled to ensure that you have
19 responses and if you're saying that the responses sent
20 were not signed, I'm sure that's an oversight but in
21 order to correct it, I'm willing to go through this on
22 the record as I intended with Mr. Smart.

23 Mr. Smart?

24 MR. SMART: Yeah.

25 THE COURT: Are you willing today to answer

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1 some of these questions on the record, so that we could
2 get this matter completed?

3 MR. SMART: Yeah.

4 THE COURT: Okay, sir. So Mr. Smart, I am
5 going to ask you to raise your right hand, please.

6 MR. SMART: Yeah.

7 D A V I D S M A R T ,

8 having been first duly sworn, was examined and
9 testified as follows:

10 THE COURT: And can you state your full name,
11 sir?

12 MR. SMART: Yeah, my name is David Smart.

13 THE COURT: And Mr. Smart, were you employed
14 at the Brooklyn South Traffic Violations Bureau located
15 at 2875 West 8th Street in Brooklyn, New York, sir?

16 MR. SMART: Yeah, I was once employed there but
17 I am no longer there.

18 THE COURT: Okay. So that answers question 1
19 and 2. What was your job when you were working there,
20 sir?

21 MR. SMART: I was a security guard.

22 THE COURT: And who was your employer? Who
23 paid your wages when you were employed there?

24 MR. SMART: Yeah, the -- I started with a
25 company called PEC, started -- I started on 2/7 to '16,

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1 2016. I was there the 2015 when this (indiscernible)
2 occurred with PEC. And then I resumed -- when PEC left,
3 I resumed working with Explorer (ph.) from 2/20 to --
4 2/2016 to October 8, 2020.

5 THE COURT: So you're not currently working at
6 Brooklyn South Traffic Violations Bureau; is that
7 correct, sir?

8 MR. SMART: No, yes, it's correct because I
9 left there since October 20, 2020 -- October 8th, sorry,
10 October 8th, 2020.

11 THE COURT: So October 8th of 2020, you stopped
12 working at the Brooklyn South Traffic Violations?

13 MR. SMART: Yeah, yeah, I was working for
14 Explorer at the -- at that time.

15 THE COURT: Okay. And from -- I think you said
16 2016 until 2020, you were working at the Brooklyn South
17 Traffic Violations Bureau; is that correct?

18 MR. SMART: Yeah, with Explorer Company, a
19 different company, not PEC. PEC left and we were -- they
20 were replaced by Explorer, a security company located on
21 the 151st street -- 60 51st street in Manhattan.

22 THE COURT: So you're basically saying there
23 were different names of the employer because different
24 security firms got the contract but you were there from
25 2015 until 2020; is that --

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1 MR. SMART: Yeah, yes, yes. It's how we did --
2 we had -- we had about five -- five different security
3 companies, replacing one another.

4 THE COURT: Okay. So now I am going to ask you
5 the question that Mr. Capogrosso wrote at number 5, this
6 is on document 149-1. He asked, who told you to approach
7 Mario Capogrosso on the morning of May 11th, 2015?

8 MR. SMART: Nobody -- nobody told me anything.
9 He was -- he was -- he -- he -- he came in. I was really
10 by the door, he came in -- he came in aggressively,
11 raised his hand up and went to the line and then
12 continuously looking at me, you know?

13 So I am looking and looking, we were looking at
14 each other, and so -- and I say -- I say, wait a minute,
15 let me do -- what's going on here? So I went -- I said
16 oh, why are you looking at me? You see, I'm the one that
17 looking at him. I said you are looking at me so like you
18 want to start something. He say I was -- I was the one
19 that was looking at him.

20 You know, all of the sudden -- all of the
21 sudden, I was shocked though because I was knowing -- I
22 was knowing for a long time. I was shocked. He just
23 punched me in the chest and I had to hold onto the rail.
24 I had to hold onto the rail and then some police officer
25 came, everybody came around. Then they say hey, you ave

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1 to do something about this guy. So I -- I say no, I'm
2 going to go and -- Danielle (ph.) came to me and said
3 what happened. I said, my -- my response was say well go
4 61 on him, so I went to 6-0, I got 6-1 on him and two
5 police officers came with me, not too long, they came
6 with me. Then they wanted to talk to him and he was
7 nowhere around. They waited for quite a while and trying
8 to be -- they look around. I checked -- they checked the
9 restroom. They checked many other places. He wasn't
10 anywhere on the ground. He was gone.

11 THE COURT: Okay.

12 MR. SMART: And then they told me that the only
13 thing I can do, I can contact the One Police Plaza. I
14 went back to the 6-0 and they gave me a form to fill out
15 and I sent out the -- the -- to One Police Plaza and One
16 Police Plaza sent me a response that -- they -- they
17 going to have a conversation with him or I was going to
18 say, or they're going to send me a letter and the rest
19 was history.

20 THE COURT: Mr. Smart, I'm going to ask you
21 question number 6 which is similar to question number 5.
22 Did defendant Alan Gelbstein, defendant Ida Trachin,
23 defendant Danielle Calvo and/or Boshra Vahdat, tell you
24 to approach Mr. Capogrosso on the morning of May 11th,
25 2015?

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1 MR. SMART: No way. No way.

2 THE COURT: Thank you, sir.

3 MR. SMART: They were not even -- they were not
4 even near.

5 THE COURT: Thank you. Thank you, sir. Thank
6 you. So I have gotten Mr. Smart to answer the
7 interrogatories under oath. I will get a copy of this
8 conference transcript made part of the record and that in
9 my mind, Mr. Capogrosso, has eliminated this issue which
10 has caused some consternation and I do know that Judge
11 Komitee has set a scheduled for the defendant's summary
12 judgment motion which means that they're going to serve
13 you with their motion on March 31st of 2021 and you have
14 until April 30th of 2021 to serve your opposition and
15 that they will reply and both sides should file their
16 portions of the motion on May 10th, 2021.

17 Let me just mention, Mr. Thompson, that there
18 is a special notice provision under 56.2 of the Local
19 Rules which although Mr. Capogrosso is an attorney and he
20 is not entitled to the special solicitude that pro se
21 litigants are entitled to, it may be smart for you to
22 just to include the notice, so that for any determination
23 to be made, you've gone above and beyond what your duty
24 is and provided him special notice of how to oppose a
25 motion for summary judgment.

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1 And Mr. Capogrosso, because you are an
2 attorney, you are expected to look at Local Rule 56.1 and
3 to file a counter statement to whatever 56.1 statement is
4 filed by the defendants.

5 Mr. Smart, I know that you're still working
6 with the City Bar and that they were looking for limited
7 scope pro bono counsel for the purpose of moving on your
8 behalf for summary judgment. Is that correct, sir?

9 MR. SMART: Yeah, I was called yesterday by Kat
10 Ataka (ph.) and they say that she is looking for one to
11 represent me.

12 THE COURT: Okay.

13 MR. SMART: And she is going to let me know as
14 soon as possible.

15 THE COURT: So you please stay in touch, so
16 that when the motion is made to Judge Komitee, he'll have
17 everybody's motion at the same time, okay?

18 MR. SMART: Yeah.

19 THE COURT: Mr. Capogrosso, do you have any
20 questions for the Court before we adjourn?

21 MR. CAPOGROSSO: I do. I do.

22 THE COURT: Yes.

23 MR. CAPOGROSSO: I do and I will keep it short
24 because I will waste the Court's time and I don't want to
25 do that but I do have several questions. Number one,

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1 will I be getting a copy of this deposition, your Honor?

2 THE COURT: Are you going to get a copy of the
3 transcript of today's --

4 MR. CAPOGROSSO: Of the transcript --

5 THE COURT: -- conference?

6 MR. CAPOGROSSO: -- yes.

7 THE COURT: Yes, you are sir.

8 MR. CAPOGROSSO: Yes, thank you.

9 May I ask Attorney Thompson concerning my
10 deposition which I have not received yet and I've sent
11 him a copy of mine.

12 THE COURT: Mr. Thompson?

13 MR. CAPOGROSSO: And when am I going to get it?

14 THE COURT: Mr. Thompson, can you get Mr.
15 Capogrosso a copy of his deposition transcript please?

16 MR. THOMPSON: Certainly, we can do that.

17 MR. CAPOGROSSO: When am I going to get it and
18 is it going to be a hard copy or an electronic file? I
19 sent you a hard copy.

20 MR. THOMPSON: If you would like, I can email
21 you a digital copy this afternoon.

22 MR. CAPOGROSSO: I don't want a digital copy, I
23 want a hard copy. I sent you a hard copy. I would like
24 a hard copy (indiscernible).

25 THE COURT: Sir, sir, sir?

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1 MR. CAPOGROSSO: Yes.

2 THE COURT: Nobody is in their office, so if
3 what you're asking for him to print it in a printer and
4 put it in the mail to you, it's going to take longer.
5 Don't you have a printer at your home where he could
6 email it to you and you could print it out for yourself?

7 MR. CAPOGROSSO: Judge, I would like it the way
8 I sent it to Attorney Thompson. That's how I would like
9 it, hard copy.

10 THE COURT: Mr. Thompson, is there a way that
11 you could get it printed in your office and sent to Mr.
12 Capogrosso?

13 MR. THOMPSON: We could but what I would ask in
14 return, it's much more useful for us to have copies of
15 transcripts in digital formats because when he sends
16 things to us in hard copy, we have to have someone go
17 through page-by-page and scan it.

18 So what I would say is if we're going to print
19 out a hard copy for him, I would request a digital copy
20 of the transcripts he's taken.

21 MR. CAPOGROSSO: That's fine. That's fine.
22 That's fine.

23 THE COURT: So Mr. Capogrosso --

24 MR. CAPOGROSSO: That's fine.

25 THE COURT: -- they will print out a copy for

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1 you because that's your preference and he said could you
2 please email him --

3 MR. CAPOGROSSO: Absolutely.

4 THE COURT: -- a digital copy of the
5 depositions that you took, okay?

6 MR. CAPOGROSSO: Well, normally the court
7 reporter prints out a hard copy. I've done this for a
8 while. A hard copy, they do, they send you a hard copy
9 of (indiscernible). So that's fine. We'll make a hard
10 copy and as soon as I get a hard copy, I'll send you a
11 digital copy.

12 In terms of the deposition, Judge, this is the
13 Court's deposition, am I allowed to (indiscernible) any
14 question?

15 THE COURT: No.

16 MR. CAPOGROSSO: I am not.

17 THE COURT: You're done. You're done.

18 MR. CAPOGROSSO: All right. Okay.

19 (Indiscernible).

20 THE COURT: Was there anything else today, Mr.
21 Capogrosso before we adjourn?

22 MR. CAPOGROSSO: When will I get the hard copy,
23 Attorney Thompson?

24 MR. THOMPSON: I -- let me check and see. I
25 will try to get it in the mail for you by the end of the

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14

1 wee, does that work?

2 MR. CAPOGROSSO: That's fine. That will be
3 great.

4 THE COURT: And likewise, I'll get the court
5 reporter's to transcribe today's conference and I will
6 endeavor to get it to you by the end of next week, Mr.
7 Capogrosso.

8 MR. CAPOGROSSO: All right. I'm not wanting to
9 waste the Court's time but I have one more comment that I
10 would like to ask Attorney Thompson and as well as the
11 attorney for the DMV. This was brought up at the
12 deposition of defendant Gelbstein. May I ask Attorney
13 Thompson?

14 THE COURT: Go ahead, Mr. Capogrosso.

15 MR. CAPOGROSSO: Fine. At the attorney of
16 Attorney Gelbstein, you testified that there were no
17 ticket brokers in his office. Defendant Calvo indicated
18 he saw ticket brokers in his office.

19 THE COURT: I'm having a difficult time, Mr.
20 Capogrosso, understanding --

21 MR. CAPOGROSSO: Fine.

22 THE COURT: -- what you're saying. I don't
23 know if it's the line or you're speaking not into the
24 phone but please, you are asking Mr. Thompson a question
25 about Gelbstein's deposition, so what is the question?

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1 MR. CAPOGROSSO: Yes. The question is at his
2 deposition, I'm speaking into the phone now, he indicated
3 that there were no ticket brokers in his office, Jewish
4 ticket brokers in his office. Defendant Calvo indicated
5 that there were. She saw them. I saw them. I was there
6 ten years. He indicated that he was not pleading
7 motorists guilty on a sidebar with Judge Bloomstein. I
8 indicated I saw that. He indicated that he might have --
9 might have --

10 THE COURT: What is the question that you have,
11 Mr. Capogrosso?

12 MR. CAPOGROSSO: The question is is this, your
13 Honor. Your Honor, the question is this. These are
14 allegations of wrongdoing on behalf of -- by Defendant
15 Gelbstein by myself on behalf -- by defendant Gelbstein
16 by myself. Has the Attorney General's office opened up
17 an investigation concerning these allegations of
18 wrongdoing with respect to defendant Gelbstein?

19 THE COURT: Mr. Capogrosso, sir, with all due
20 respect --

21 MR. CAPOGROSSO: Yes.

22 THE COURT: -- you are an attorney. If you
23 want to ask a FOIA request of the State regarding any
24 investigation, you could do that but Mr. Thompson is not
25 going to have to answer your questions today and again,

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1 as far as the summary judgment goes, if there are
2 inconsistencies in the testimony of the witnesses, you
3 could use that for whatever purpose is, you could use for
4 whatever purpose you believe will help you sustain your
5 burden as the plaintiff in this civil rights action but
6 that's not the purpose of today's call.

7 So I am not going to have Mr. Thompson have to
8 answer whether there's an investigation into these
9 allegations. You say there was testimony that
10 contradicted Gelbstein's testimony. You can point that
11 out in your papers to the Court and make your best
12 argument but that is not for Mr. Thompson today and if
13 you want to file a FOIL request with the State to find
14 out if there has been an investigation, you're an
15 attorney, sir, you're free to do that.

16 MR. CAPOGROSSO: I understand that.

17 THE COURT: Okay?

18 MR. CAPOGROSSO: One more -- I don't want to
19 waste the Court's time, I'll take one more minute.

20 THE COURT: Yes, sir.

21 MR. CAPOGROSSO: With respect to your
22 questioning of defendant Smart, now I would ask that a
23 more precise question because part of the question was
24 who told defendant Smart -- who told you to approach me,
25 approach, the word was approach.

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1 THE COURT: He said no one did.

2 MR. CAPOGROSSO: Now defendant Smart --

3 THE COURT: He said no one did. And he clearly
4 talked about that you walked in, were staring at him, he
5 was staring at you, because you were staring at him and
6 that's why he approached you. That's what his sworn
7 testimony was.

8 MR. CAPOGROSSO: He didn't say that he
9 approached me.

10 THE COURT: Yes, he did.

11 MR. CAPOGROSSO: That's the question I want
12 more precise answer. He never said he approached me.

13 THE COURT: He said he approached you. He said
14 he approached you --

15 MR. CAPOGROSSO: All right. I'll look at the
16 deposition.

17 THE COURT: -- for staring at him.

18 MR. CAPOGROSSO: I'll look at the transcript.

19 THE COURT: Okay.

20 MR. CAPOGROSSO: All right. Fine. Thank you,
21 Judge.

22 THE COURT: Okay. Anything else, Mr. Thompson
23 before we adjourn today?

24 MR. THOMPSON: Yes, your Honor, one quick
25 matter and it may be for Judge Komitee. I noticed in Mr.

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1 Smart's submission that he's contemplating filing his own
2 motion for summary judgment which would presumably go on
3 a different and alter timetable than ours.

4 THE COURT: Hopefully not, hopefully not.
5 Hopefully, whoever is filing for him will be able to file
6 something short and sweet within the time frame set by
7 the Court and if not, they'll make the application to
8 Judge Komitee.

9 MR. THOMPSON: Okay. Our request was just that
10 we, you know -- our time table be harmonized with that
11 one but we can see what happens then.

12 THE COURT: Stay with your time table unless
13 you need an extension of time and then you should
14 approach Mr. Capogrosso before approaching Judge Komitee.

15 MR. THOMPSON: Thank you, your Honor.

16 THE COURT: Anything further, Mr. Smart, before
17 we adjourn here today?

18 MR. SMART: No, what I -- what I would like to
19 say to Mr. Capogrosso is that I have known him -- your
20 Honor, I have known Mario, I used to work for Alexanders
21 and that was how the whole thing started and I was
22 talking him and I say oh, he used to work for Alexanders
23 also. At what part --

24 MR. CAPOGROSSO: No, this is off the record.

25 MR. SMART: No, no, no, no this is very --

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1 THE COURT: No, we're still on the record.

2 MR. SMART: This is very -- this is very
3 important. This is very important because that is where
4 you and me became we're talking about this and then we're
5 talking about Alexanders and all those kind of stuff and
6 then -- then he also told me that he's so lonely where he
7 lives and he would like to find a place, a club or some
8 sort. So I told him about Log Cabin, that was a club on
9 23rd Street and Avenue Z and -- Town Coffee (ph.) on 20 -
10 - on 18th Street and Avenue Z. And we went on -- that
11 went on, he carry on and you impressed me for introduce
12 you to those clubs. So you know, I am just shocked that
13 this nonsense will come to this kind of a area which I
14 wasn't expecting and that's all I have to say because I'm
15 very shocked.

16 MR. CAPOGROSSO: Well, this is nonsense. I'm
17 out of work. My career has been ruined, David, ruined.
18 I don't have to explain --

19 THE COURT: Again --

20 MR. CAPOGROSSO: -- (indiscernible) the things
21 that you created, (indiscernible) stopped.

22 THE COURT: Mr. Capogrosso --

23 MR. CAPOGROSSO: There was all kinds of
24 nonsense.

25 THE COURT: Mr. Capogrosso, again --

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1 MR. CAPOGROSSO: Yes, Judge.

2 THE COURT: -- you're litigating the case --

3 MR. CAPOGROSSO: I understand.

4 THE COURT: -- Mr. Smart just stated on the
5 record that he's shocked. It has nothing to do with the
6 merits of the case. He's shocked.

7 MR. CAPOGROSSO: Fine, Judge.

8 THE COURT: He's entitled to his feelings.

9 Is there anything else that anybody needs to
10 address today, otherwise I am adjourning the conference.
11 All discovery is closed.

12 MR. CAPOGROSSO: Okay, David.

13 THE COURT: The defendants have gotten
14 permission from Judge Komitee to move for summary
15 judgment and the schedule has been set by Judge Komitee
16 and any alteration of that schedule should only be made
17 on application to Judge Komitee after the parties have
18 spoken about it if they need any extension of time. That
19 works on both sides, Mr. Capogrosso. If you need more
20 time, you need to contact Mr. Thompson. If Mr. Thompson
21 needs more time, he needs to contact you and the Court
22 could always grant it even if one side or the other says
23 no.

24 So again, I am saying that the summary judgment
25 schedule remains in effect. I have said to look at the

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1 Local Rules, Mr. Thompson, to make sure that you're
2 complying with them, that goes for you as well, Mr.
3 Capogrosso. They'll get you the transcript of the
4 deposition. You'll get them the transcripts. I will get
5 the record made from today's conference and make that
6 transcript available to you, Mr. Capogrosso and with
7 that, we are adjourned.

8 MR. CAPOGROSSO: Thank you.

9 THE COURT: Thank you everybody very much.

10 MR. SMART: Thank you, your Honor.

11 (Matter Concluded)

12 -o0o-

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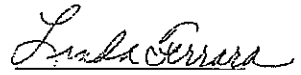
25

C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 17th day of March 2021.


Linda Ferrara

AAERT CET 656
Transcriptions Plus II, Inc.

EXHIBIT B

My NAME IS Tanya Gordon
ON 5/14/14 @ APPROX 2:00 PM.

PATRON: I was writing for Jo

Spok do Ma. Marc. H. Cyprian,

M. Powers Asks you

Sec. 7 b. 1 Dec 2 1992

~~My presence~~ I told D. & please

she is waiting to speak to me.

At that point the spring boud

to let me Fuck you. I indicated

7. 15. 54 12. 4. 1979 7. 5. 1979

to me please ~~ask me~~ she is waiting to speak to me

He n/d of Feb you ag. m.

I told him to keep working.

While I was waiting for Mr. C the security came back and walked over to Mr C and was hostile P-32

Mr. C. Leon Chilcote; 3140 Indiana, National Class personal sec.

EXHIBIT C

10/23/14

ON WEDNESDAY OCTOBER 22, 2014

WHILE SPEAKING TO A MOTELIST

I MOVED AN UMBRELLA LYING ON

TOP OF YOUR TRASH FROM THE ~~REAR~~

FRONT OF THE TRASH TO THE REAR OF

THE TRASH IN ORDER TO LAY DOWN

MY PAD SO I COULD BETTER

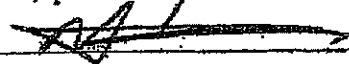
SPEAK TO A CLIENT

ON THURSDAY OCTOBER 23, 2014

YOUR SECURITY GUARD DAVE APPROXIMATED

ME INDICATING NOT TO MOVE ANY

UMBRELLAS ON THE TRASH CAN OR ELSE

Annex


Memo 4. PROSECUTOR
9/4-806-3692

EXHIBIT D

I came down to the
 DMV 10/31/13 Lobby for
 Mr. Cappuccino. The lady
 told Dave indicated to
 me that Mr. Cappuccino was
 not here. He directed
 me to another attorney
 and told me to have
 another attorney.

As a result

I lost time

from my job.

A Mc Lemont
 Thaddeus L. Mc Lemont
 Thaddeus L. Mc Lemont
 83 82

EXHIBIT E

Law Office of Mario H. Capogrosso, Esq.

245 Saw Mill River Road, Suite 108
Hawthorne, New York 10532

March 20, 2015

Ms. Elizabeth Prickett-Morgan
NYS Office of the Attorney General
120 Broadway, 24th floor
New York City, NY 10027

Dear Madam:

I am an attorney in the state of New York.

My Registration number is 424431.

Please reference index number 7738/2012.Capogrosso vs. State Dept of Motor Vehicles for which I was in litigation. A settlement agreement was reached on June 20, 2012. As part of this settlement agreement I was required to take an anger management course and upon completion of this course I was to be allowed to practice law in all DMV courts on an equal and unbiased standing with all other attorneys in the DMV.

To this date, I have been in complete compliance with all conditions as set forth as part of this settlement agreement.

However, the DMV has not upheld its side of this agreement.

On numerous occasions, I have been harassed, threatened and now currently my files are being tampered with while they are left unprotected in the attorneys room at the DMV at 2875 West 6th Street, Brooklyn, the principal DMV location at which I practice.

The threatening and harassment I have let go because I do not easily get intimidated nor harassed. But at this point my client's files are being tampered with and I must, as a attorney, object.

I provide the following in evidence:

1) On numerous occasions your security guard Dave Sparks has told me to go F___ myself (will provide proof upon request);

2) on several occasions your security guard Sparks has redirected other clients who come have looking for me specifically to other attorneys or has interfered with my conversations while speaking to a clients (will provide proof upon request);

3) your security guard Sparks has approached me, gotten in my face, stared and glared, I asked him what was the problem was and he told me I was the problem, F___ you;

4) your security guard Sparks, has stood looked at me directly while I was standing on the DMV traffic line gave me the sign of the cross twice and directed a spear hand in my direction.

After several complaints to Administrative Judge Gelbstein, the Senior judge at the Brooklyn TVB, I called Sparks employer. Subsequently, your security guard Sparks was relieved from his duties at the Brooklyn DMV for two weeks (proof to be provided).

I have made numerous complaints to Judge Gelbstein. His response has been " a spade is a spade (his words not mine), he laughs and giggles.

Judge Gelbstein is either complicit, incapable or incompetent to handle this issue.

As I have stated, I have ignored these incidents and have attempted at all levels not to aggravate the situation.

I have been in countless courts in my ten years of practice as an attorney and have never seen such behavior in any court system.

As I have stated, I can defend myself and absolutely will, so to this point I have ignored these incidents.

However, at this point your security guard Sparks is entering the attorney's room and tampering with my files. I have asked Judge Gelbstein to look at security tapes and have gotten no response.

As an attorney, I must now object. I cannot have my files tampered with.

I do not want an incident on your floor, I do not want an incident in your courtroom, I have no reason to have any trouble with any of your employees at the Brooklyn DMV.

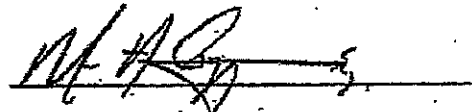
To date, I have been a perfect gentleman and in complete with all conditions as set upon me by the settlement reached on June 12, 2012.

The DMV has not upheld their side of this agreement.

All I ask is that they do so.

I do not seek to litigate but I will if I have to.

Please take any and all action to expedite and resolve these issues



Mario H. Capogrosso, Esq.

914-809-3692

NY Registration No. 4244331

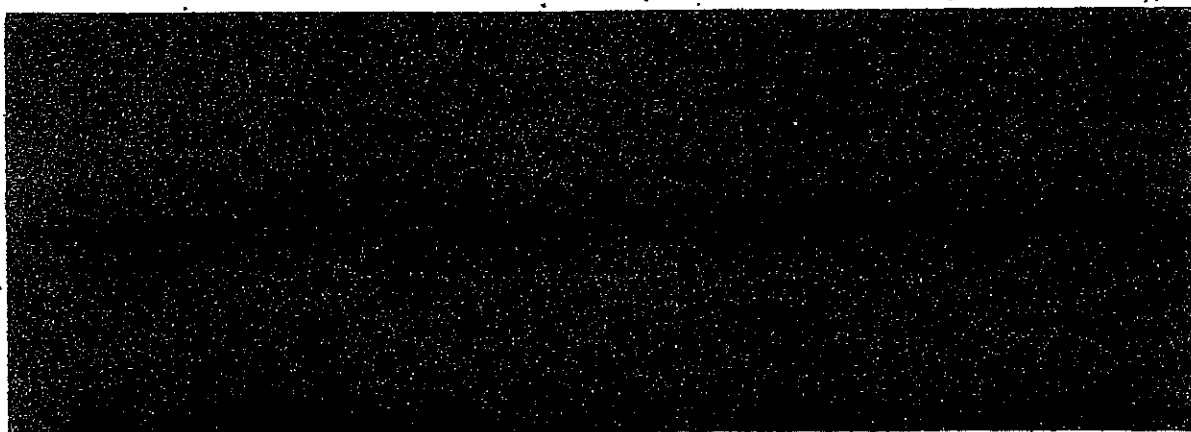
EXHIBIT f



**Department of
Motor Vehicles**

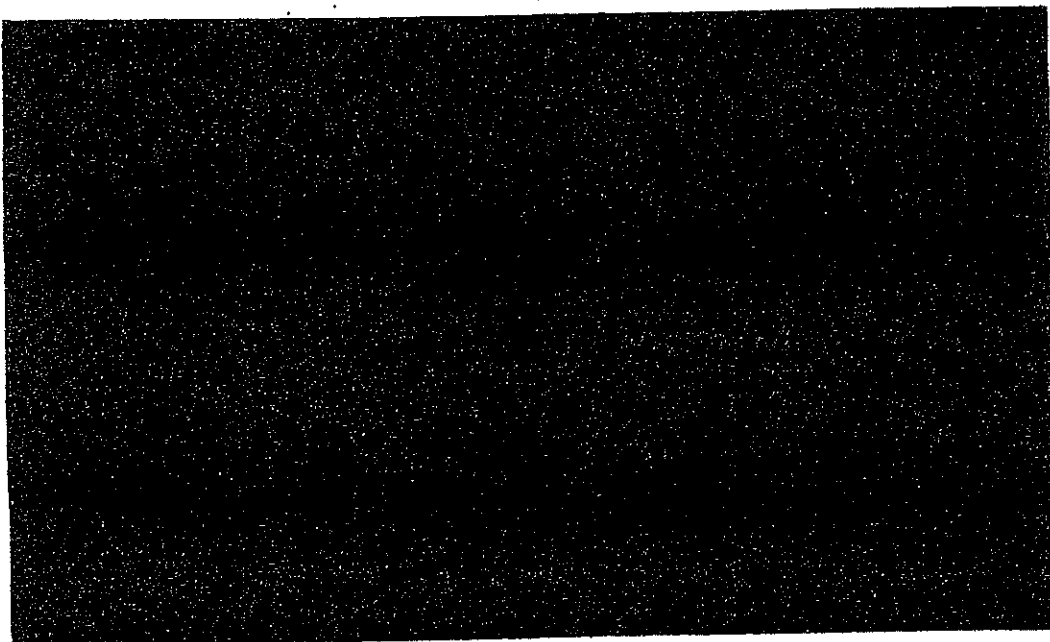
MEMORANDUM

DATE: May 27, 2015
TO: Jean Flanagan and Vincent Palmieri
FROM: Danielle Calvo
RE: May 2015 Monthly Report
OFFICE: Brooklyn South TVB



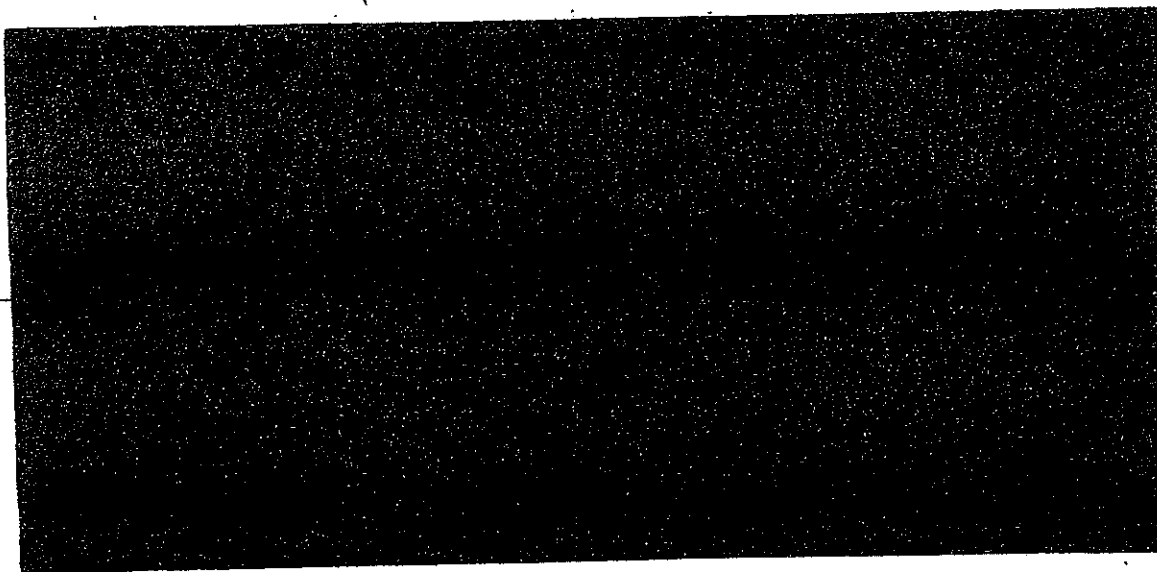
Workplace Violence

On 5/5 two of the attorneys (Mr. Capogrosso and Mr. Tahir) had an altercation and a workplace violence report was submitted. On 5/11 Mr. Capogrosso pushed our security guard David Smart and another workplace violence report was submitted. Mr. Capogrosso was asked to leave the building that day and since then has not been permitted to enter any of the TVB offices.



I. Workplace Violence

On 5/5 two of the attorneys (Mr. Capogrosso and Mr. Tahir) had an altercation and a workplace violence report was submitted. On 5/11 Mr. Capogrosso pushed our security guard David Smart and another workplace violence report was submitted. Mr. Capogrosso was asked to leave the building that day and since then has not been permitted to enter any of the TVB offices.



Brooklyn South TVB
Monthly Report for period ending May 31, 2015
Legal Affairs Key Priorities for Program Area Performance and Results

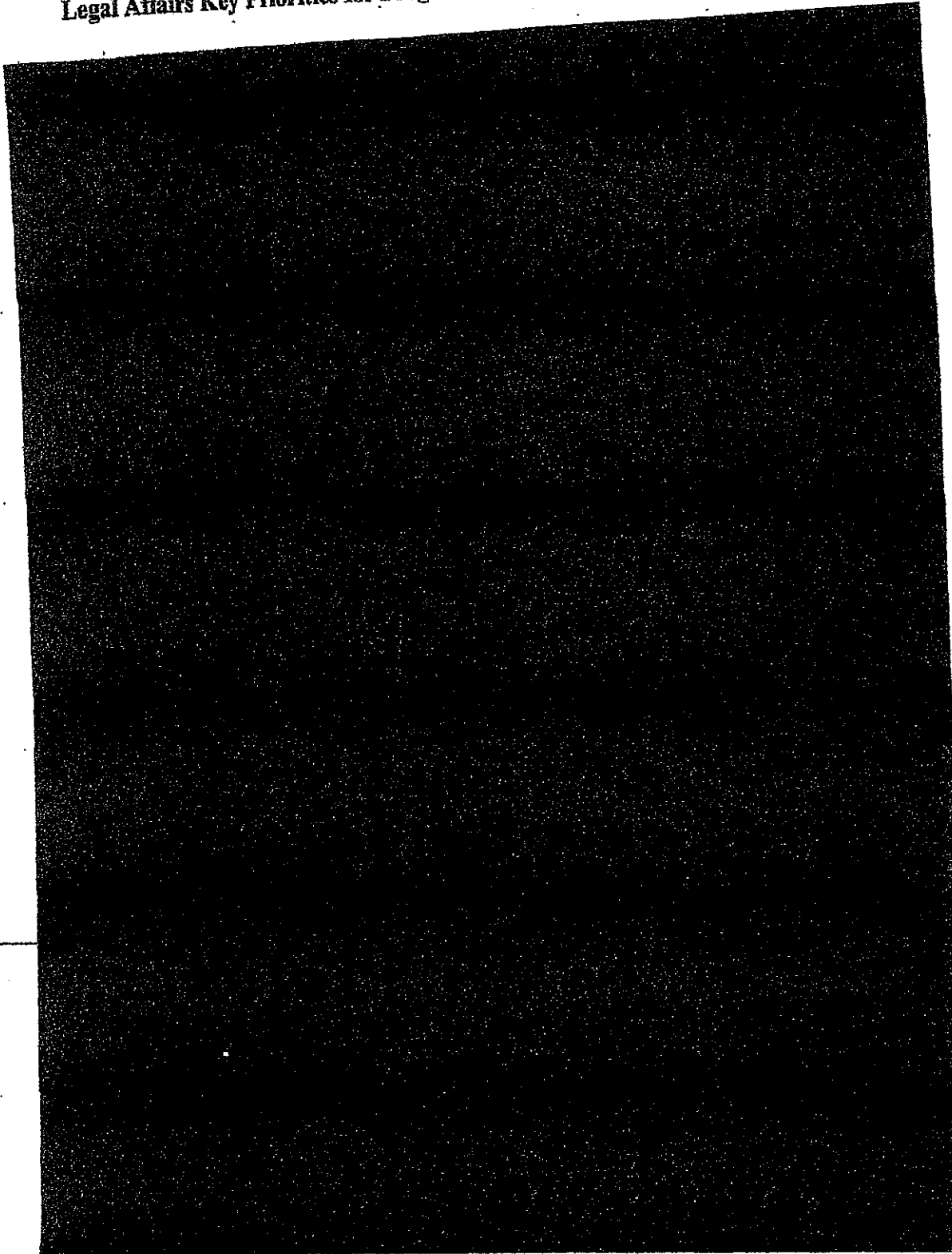


EXHIBIT G

MV-984 (12/11)



New York State Department of Motor Vehicles

DIVISION OF LABOR RELATIONS

REPORT OF WORKPLACE VIOLENCE INCIDENT

Please fill out the form as accurately as possible and fax it to the Division of Field Investigation at (518) 474-7543 **AND** Labor Relations at (518) 474-8423. If the incident is a written threat, please include a copy of the letter with this report. Originals should be maintained in a workplace violence report folder at the primary office that the reporter works in.

FILE NUMBER:	
Received:	
X RE:	
X RE:	
PRIVACY CONCERN:	<input type="checkbox"/> YES <input type="checkbox"/> NO

NAME OF INDIVIDUAL FILING REPORT

Name David Smart	Title Guard-Summit	Office Location Brooklyn South TVB	Phone Number REDACTED
---------------------	-----------------------	---------------------------------------	---------------------------------

INCIDENT REPORTED TO

Date Reported 5/11/15	Person Reported To Danielle Calvo	Title Supervisor Grade 17
--------------------------	--------------------------------------	------------------------------

INCIDENT

Date 5/11/15	Time 8:50	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Location of Occurrence Brooklyn South TVB near line 1
DFI Contacted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	DFI Contact Name		

EMPLOYEES INVOLVED

Name David Smart	Title Security Guard-Summit Security
Name	Title
Name	Title

OUTSIDE INDIVIDUALS INVOLVED

Name Mario H. Capogrosso	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Phone REDACTED	Client ID #
Address REDACTED	City REDACTED	State	Zip Code
Name	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Phone	Client ID #
Address	City	State	Zip Code
Name	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Phone	Client ID #
Address	City	State	Zip Code

WITNESSES

Name REDACTED	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Phone REDACTED
Address REDACTED	City REDACTED	State Zip Code
Name REDACTED	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Phone REDACTED
Address REDACTED	City REDACTED	State Zip Code
Name	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Phone
Address	City	State Zip Code

Continue on other side

Page 1 of 2

Description of Events Leading to the Incident and What Occured:

Near line 1 Mr. Capogrosso said to security guard David Smart "Are you looking at me?". David replied "You are looking at me". Mr. Capogrosso said "back up, back up", he then pushed David in his chest.

Nature and Extent of Injuries:

Additional Comments:


911 was called and two officers responded. David went up to the 60pct with them to make a report. They said that they could not arrest Mr. Capogrosso because he pushed David with an open hand not a closed fist. I was told by Judge Gelbstein to go with officers from the police room, to tell Mr. Capogrosso that he must leave the building, and to give him legal's phone number for any further details. I did that and he left the building.

Danielle Calvo

Name of Individual Filing Report

Name of Supervisor


Signature of Individual Filing Report


Signature of Supervisor

5/11/15

Date

Date

EXHIBIT H



New York State Department of Motor Vehicles
Coney Island
Traffic Violations Bureau
2875 West 8th Street
Brooklyn, New York 11224



Date:

5/11/15

To:

Labor Relations

From:

Dante R. Calvo

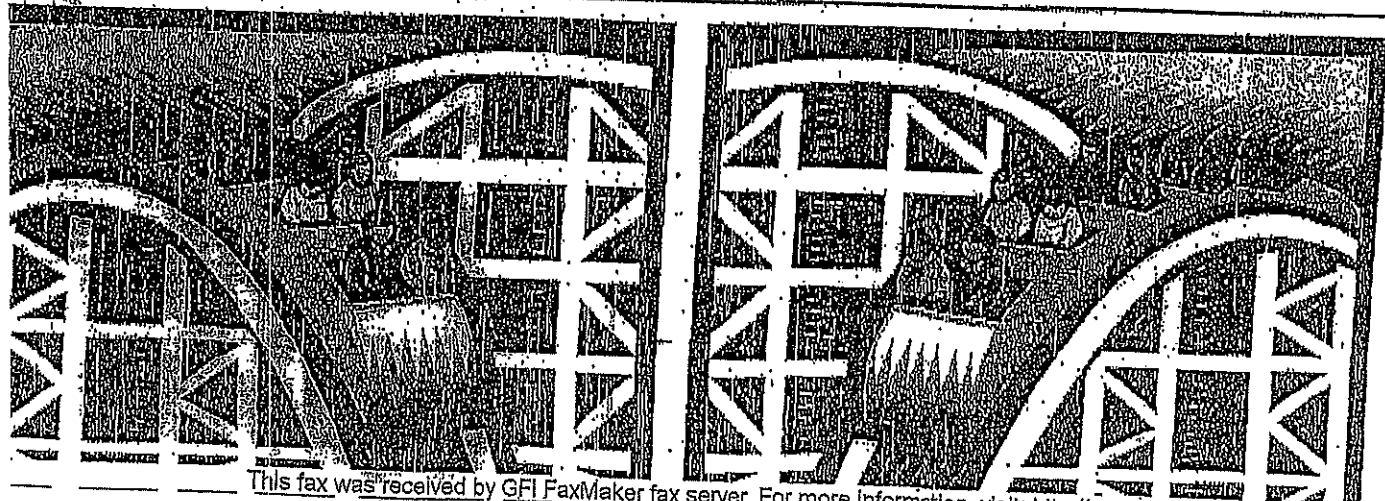
Number of pages including coversheet:

5

Our Telephone: 718-266-6867

Our Fax: 718-266-7478

The last page is Mr. Tahic's
Statement from last week's
incident. He just gave it in today.



MV-984 (12/11)



New York State Department of Motor Vehicles
DIVISION OF LABOR RELATIONS
REPORT OF WORKPLACE VIOLENCE INCIDENT

Please fill out the form as accurately as possible and fax it to the Division of Field Investigation at (518) 474-7543 AND Labor Relations at (518) 474-8423. If the incident is a written threat, please include a copy of the letter with this report. Originals should be maintained in a workplace violence report folder at the primary office that the reporter works in.

FILE NUMBER: _____

Received: _____

X RE: _____

X RE: _____

PRIVACY CONCERN: ☐ YES ☐ NO

NAME OF INDIVIDUAL FILING REPORT

Name David Smart	Title Guard-Summit	Office Location Brooklyn South TVB	Phone Number 718-266-5512
---------------------	-----------------------	---------------------------------------	------------------------------

INCIDENT REPORTED TO

Date Reported 5/11/15	Person Reported To Danielle Calvo	Title Supervisor Grade 17
--------------------------	--------------------------------------	------------------------------

INCIDENT

Date 5/11/15	Time 8:50	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Location of Occurrence Brooklyn South TVB near line 1
DFI Contacted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	DFI Contact Name		

EMPLOYEES INVOLVED

Name David Smart	Title Security Guard-Summit Security
Name	Title
Name	Title

OUTSIDE INDIVIDUALS INVOLVED

Name Mario H. Capogrosso	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Phone 914-805-3692	Client ID #
Address 245 Saw Mill River Road Suite 106	City Hawthorne	State NY	Zip Code 10532
Name	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Phone	Client ID #
Address	City	State	Zip Code
Name	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Phone	Client ID #
Address	City	State	Zip Code

WITNESSES

Name George Han-MVR	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Phone 718-266-5512
Address 2875 West 8th Street	City Brooklyn	State NY Zip Code 11224
Name Anthony Adinolfi, ESQ	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Phone 718-265-2211
Address 2875 West 8th Street	City Brooklyn	State NY Zip Code 11224
Name	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Phone
Address	City	State Zip Code

Continue on other side

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Page 1 of 2

P-259

Description of Events Leading to the Incident and What Occured:

Near line 1 Mr. Capogrosso said to security guard David Smart "Are you looking at me?". David replied "You are looking at me". Mr. Capogrosso said "back up, back up", he then pushed David in his chest.

Nature and Extent of Injuries:

Additional Comments:

911 was called and two officers responded. David went up to the 60pct with them to make a report. They said that they could not arrest Mr. Capogrosso because he pushed David with an open hand not a closed fist. I was told by Judge Gelbstein to go with officers from the police room, to tell Mr. Capogrosso that he must leave the building, and to give him legal's phone number for any further details. I did that and he left the building.

Nielve Galvo

Name of Individual Filing Report

[Signature]

Signature of Individual Filing Report

5/11/15

Date

Vincent Palmieri

Name of Supervisor

[Signature]

Signature of Supervisor

5/11/15

Date

EXHIBIT I

December 17, 2020

<p style="text-align: right;">Page 1</p> <p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p style="text-align: center;">-----X</p> <p>MARIO H. CAPOGROSSO,</p> <p style="text-align: center;">PLAINTIFF,</p> <p style="text-align: center;">-against- Case No.: 18 CV 2710 (EK) (LB)</p> <p>ALAN GELBSTEIN, in his individual capacity, IDA TRASCHEN, in her individual capacity, DANIELLE CALVO, in her capacity, SADIQ TAHIR, in his individual capacity, PEC GROUP OF NY, INC., DAVID SMART, and DMV COMMISSIONER MARK SCHROEDER, in his official capacity,</p> <p style="text-align: center;">DEFENDANTS.</p> <p style="text-align: center;">-----X</p> <p>DATE: December 17, 2020 TIME: 1:24 P.M.</p> <p>DEPOSITION of the Defendant, DANIELLE CALVO, taken by the Plaintiff, pursuant to a Notice and to the Federal Rules of Civil Procedure, held VIA ZOOM VIDEOCONFERENCE, before Jamie Newman, a Notary Public of the State of New York.</p>	<p style="text-align: right;">Page 3</p> <p>1 2 (Whereupon, all 86 exhibits 3 were previously marked by Counsel, 4 Mark Capogrosso, 5 DANIELLE CALVO, called as a 6 witness, having been first duly sworn by a 7 Notary Public of the State of New York, was 8 examined and testified as follows: 9 EXAMINATION BY 10 MR. CAPOGROSSO: 11 Q. Please state your name for the 12 record. 13 A. Danielle Calvo. 14 Q. What is your address? 15 A. 9952 Fort Hamilton Parkway, 16 Brooklyn, New York 11209. 17 Q. All right. 18 Mario Capogrosso, I'm just 19 going to ask you a couple of questions. I 20 just want the truth, I want to get to the 21 truth. 22 Now, you had me removed, you 23 came to me on the morning of May 11, 2015 24 at the Brooklyn TVB and you asked me to 25 leave in the presence of police officers.</p>
<p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES: 3 4 THE LAW FIRM OF MARIO H. CAPOGROSSO PLAINTIFF PRO SE 5 21 Sheldrake Place New Rochelle, New York 10804 6 Capogrosso@aol.com 7 8 OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL 9 Attorneys for the Defendants ALAN GELBSTEIN, in his individual 10 capacity, IDA TRASCHEN, in her individual capacity, DANIELLE CALVO, in her 11 capacity, SADIQ TAHIR, in his individual capacity, PEC GROUP OF NY, INC., DAVID 12 SMART, and DMV COMMISSIONER MARK SCHROEDER, in his official capacity 13 28 Liberty Street, 17th Floor New York, New York 10005 14 BY: JAMES THOMPSON, ESQ. james.thompson@ag.ny.gov 15 16 DMV LEGAL BUREAU 17 Attorneys for the Defendant DMV COMMISSIONER MARK SCHROEDER, in his 18 official capacity 6 Empire State Plaza, Room 522A 19 Albany, New York 11228 BY: BARBARA MONTENA, ESQ. 20 File #: 18CV2710 barbara.montena@dmv.nyc.gov 21 22 * * * * * 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 Danielle Calvo 2 Am I right in saying that? 3 A. That's correct. 4 Q. Who told you to do that? 5 A. I was told by my supervisors. 6 Q. Which supervisor? 7 A. I was told by Ida Traschen. 8 Q. On the morning of May 11, 2015? 9 A. What is -- 10 MR. THOMPSON: Is that a 11 question? 12 Q. On the morning of May 11, 2015 13 you had a telephone conversation with Ida 14 Traschen? 15 A. If that is the day you were 16 asked to leave? Yes. 17 Q. Now, for what reason did you 18 have me removed? 19 A. It wasn't my decision, it was 20 my supervisor's decision. 21 Q. It was Ida Traschen's decision? 22 A. Yes. 23 Q. Now, what made you have -- who 24 called whom, did Ida Traschen call you or 25 you called Ida Traschen?</p>

1 (Pages 1 to 4)

December 17, 2020

Page 5	Page 7
<p>1 Danielle Calvo</p> <p>2 A. I was directed to call her.</p> <p>3 Q. By whom?</p> <p>4 A. Judge Gelbstein.</p> <p>5 Q. Was Judge Gelbstein in the</p> <p>6 building that morning?</p> <p>7 A. No, he was not.</p> <p>8 Q. Did you view any of the</p> <p>9 videotape of the alleged incident between</p> <p>10 myself and Defendant Smart?</p> <p>11 MR. THOMPSON: Objection to the</p> <p>12 form of the question. You can</p> <p>13 answer.</p> <p>14 A. Not that I recall, no.</p> <p>15 Q. How did you get notice of the</p> <p>16 fact that there was an incident between</p> <p>17 myself and Defendant Smart?</p> <p>18 A. Someone came into the office</p> <p>19 and told me.</p> <p>20 Q. Who?</p> <p>21 A. I don't recall who.</p> <p>22 Q. Was it Defendant Smart?</p> <p>23 A. I don't recall.</p> <p>24 Q. And based on their testimony to</p> <p>25 you, you decided that there was an incident</p>	<p>1 Danielle Calvo</p> <p>2 form of the question, you can answer.</p> <p>3 A. I didn't make any decision</p> <p>4 whether it was the truth or not, I just</p> <p>5 reported what I was told.</p> <p>6 Q. By some person you don't know</p> <p>7 their name?</p> <p>8 A. I don't remember, no.</p> <p>9 Q. Can you tell me exactly what</p> <p>10 that person said to you, exact nature of</p> <p>11 that conversation, the exact words used?</p> <p>12 A. I can't tell you the exact</p> <p>13 words, no.</p> <p>14 Q. But, based on that testimony,</p> <p>15 you made a decision to call Judge</p> <p>16 Gelbstein; is that right?</p> <p>17 A. Yes.</p> <p>18 MR. THOMPSON: Objection to the</p> <p>19 form of the question. You can</p> <p>20 answer.</p> <p>21 Q. And Judge Gelbstein made a</p> <p>22 decision to call who, to call Ida Traschen?</p> <p>23 A. Judge Gelbstein told me to call</p> <p>24 Ida Traschen.</p> <p>25 Q. And based on that observation</p>
Page 6	Page 8
<p>1 Danielle Calvo</p> <p>2 and an altercation between myself and</p> <p>3 Defendant Smart?</p> <p>4 MR. THOMPSON: Objection to the</p> <p>5 form of the question. You can</p> <p>6 answer.</p> <p>7 A. I didn't decide anything. I</p> <p>8 just called Judge Gelbstein and let him</p> <p>9 know what happened and then that was it.</p> <p>10 Q. But, you didn't observe what</p> <p>11 happened; right?</p> <p>12 A. No, I did not.</p> <p>13 Q. And you didn't look at any</p> <p>14 videotape; right?</p> <p>15 A. Not that I recall, no.</p> <p>16 Q. And you had the ability to look</p> <p>17 at the videotape, but you didn't?</p> <p>18 A. I don't know if that incident</p> <p>19 was videotaped. I don't know what position</p> <p>20 on the floor it happened, so I couldn't</p> <p>21 say.</p> <p>22 Q. You're taking somebody's</p> <p>23 witness -- some witness observation as to</p> <p>24 what happened as to the truth; right?</p> <p>25 MR. THOMPSON: Objection to the</p>	<p>1 Danielle Calvo</p> <p>2 -- based on that testimony from a</p> <p>3 third-party, I was removed from the</p> <p>4 practice of law in all New York TVBs?</p> <p>5 Is that fair?</p> <p>6 MR. THOMPSON: Objection to the</p> <p>7 form of the question. You can</p> <p>8 answer.</p> <p>9 A. At that time I had no idea what</p> <p>10 was going to happen, I was just reporting</p> <p>11 to my supervisor what I was told.</p> <p>12 Q. And you don't recall what you</p> <p>13 were told exactly?</p> <p>14 A. No.</p> <p>15 MR. THOMPSON: Objection, asked</p> <p>16 and answered.</p> <p>17 Q. You don't recall the alleged</p> <p>18 incident or what was said concerning the</p> <p>19 incident?</p> <p>20 MR. THOMPSON: Same objection.</p> <p>21 Q. Did you ever talk to Defendant</p> <p>22 Smart concerning the incident?</p> <p>23 A. I don't recall if I had any</p> <p>24 particular conversation with him afterwards</p> <p>25 or during, but I'm sure we did at some</p>

2 (Pages 5 to 8)

December 17, 2020

Page 9	Page 11
<p>1 Danielle Calvo</p> <p>2 point.</p> <p>3 Q. So, you never asked him what</p> <p>4 was the nature of the incident between</p> <p>5 myself and him, as to what factually</p> <p>6 occurred?</p> <p>7 MR. THOMPSON: Objection to the</p> <p>8 form of the question. You can</p> <p>9 answer.</p> <p>10 A. I may have asked him at the</p> <p>11 time, but I don't recall what he said to me</p> <p>12 or...</p> <p>13 Q. Did you ask him before I was</p> <p>14 removed, or after I was removed?</p> <p>15 A. I don't know.</p> <p>16 Q. You don't know.</p> <p>17 Did you ever ask me as to what</p> <p>18 happened concerning that alleged incident?</p> <p>19 A. I don't remember having any</p> <p>20 conversation with you, no.</p> <p>21 Q. You don't recall the</p> <p>22 particulars of the incident, you don't</p> <p>23 recall talking to Defendant Smart</p> <p>24 concerning the incident, and you didn't</p> <p>25 talk to me concerning the accident.</p>	<p>1 Danielle Calvo</p> <p>2 wrote about me, that I'm complicit,</p> <p>3 incapable and incompetent, can't you go</p> <p>4 practice somewhere else."</p> <p>5 Do recall that statement by</p> <p>6 Defendant Gelbstein?</p> <p>7 A. No, I do not.</p> <p>8 Q. Do you have any knowledge as to</p> <p>9 whether Defendant Gelbstein or Ida Traschen</p> <p>10 had Defendant Smart approach me on the</p> <p>11 morning of May 11, 2015?</p> <p>12 A. No, I do not.</p> <p>13 Q. Are you privy or knowledgeable</p> <p>14 of the letter that I wrote to the attorney</p> <p>15 general's office on March 20, 2015, were</p> <p>16 you knowledgeable about that?</p> <p>17 MR. THOMPSON: Objection to the</p> <p>18 form, you can answer.</p> <p>19 A. I did know about it. I don't</p> <p>20 know if I ever saw it or who told me about</p> <p>21 it, but I was aware that something was</p> <p>22 written.</p> <p>23 Q. Did you ever read it?</p> <p>24 A. To my knowledge, I don't</p> <p>25 remember.</p>
Page 10	Page 12
<p>1 Danielle Calvo</p> <p>2 Yet you make a phone call to</p> <p>3 Defendant Gelbstein concerning the incident</p> <p>4 who tells you to call Ida Traschen</p> <p>5 concerning the incident; is that fair to</p> <p>6 say?</p> <p>7 MR. THOMPSON: Object to the</p> <p>8 form, you can answer.</p> <p>9 A. Yes.</p> <p>10 Q. And as a result of that phone</p> <p>11 call, I'm not allowed to practice at the</p> <p>12 New York TVB, you know that; right?</p> <p>13 MR. THOMPSON: Object to the</p> <p>14 form, you can answer.</p> <p>15 A. I was not aware at that moment</p> <p>16 that that was what was going to happen, but</p> <p>17 I am aware of that afterwards, yes.</p> <p>18 Q. Did you approach me on the</p> <p>19 afternoon of May 8th in the attorneys' room</p> <p>20 in the presence of the Defendant Gelbstein,</p> <p>21 did you and him approach me in the</p> <p>22 afternoon of May 8, 2015?</p> <p>23 A. I don't know if we did or not.</p> <p>24 Q. Do you recall Defendant</p> <p>25 Gelbstein saying to me, "I read what you</p>	<p>1 Danielle Calvo</p> <p>2 Q. Were you knowledgeable of any</p> <p>3 of the complaints I had against Defendant</p> <p>4 Smart at the Brooklyn TVB that I followed</p> <p>5 with Defendant Gelbstein, were you</p> <p>6 knowledgeable of any of those complaints?</p> <p>7 A. I know you made a lot of</p> <p>8 complaints about a lot of different people,</p> <p>9 particularly and specifically, no.</p> <p>10 Q. I only make complaints about</p> <p>11 Defendant Smart.</p> <p>12 The only thing that was in</p> <p>13 writing was to Defendant Smart and I'm</p> <p>14 asking very specifically, did you have any</p> <p>15 knowledge of any of those complaints?</p> <p>16 MR. THOMPSON: Objection, asked</p> <p>17 and answered. You can answer.</p> <p>18 A. I don't recall specifically,</p> <p>19 but I may have known at the time.</p> <p>20 Q. Did you have supervisory</p> <p>21 authority over the actions of Defendant</p> <p>22 Smart at the Brooklyn TVB?</p> <p>23 MR. THOMPSON: Objection to the</p> <p>24 form. You can answer.</p> <p>25 A. To some extent we could ask him</p>

3 (Pages 9 to 12)

December 17, 2020

<p style="text-align: right;">Page 13</p> <p>1 Danielle Calvo</p> <p>2 to do certain things, but he worked for an</p> <p>3 outside company.</p> <p>4 Q. So, who did he report to on a</p> <p>5 daily basis?</p> <p>6 A. He had to call into his office</p> <p>7 every morning and he submitted his time</p> <p>8 cards to them, but we had to know he was</p> <p>9 there.</p> <p>10 Q. Who governed his day-to-day</p> <p>11 activities at the Brooklyn TVB?</p> <p>12 MR. THOMPSON: Objection to the</p> <p>13 form. You can answer.</p> <p>14 A. We would tell him what we</p> <p>15 wanted done as far as opening, closing.</p> <p>16 Things like that.</p> <p>17 Q. You governed his day-to-day</p> <p>18 activities?</p> <p>19 MR. THOMPSON: Same objection.</p> <p>20 Q. Clerical staff, the clerical</p> <p>21 supervisors governed his day-to-day</p> <p>22 activities; is that correct?</p> <p>23 MR. THOMPSON: Same objection.</p> <p>24 A. To some extent, yes.</p> <p>25 Q. And did you receive complaints</p>	<p style="text-align: right;">Page 15</p> <p>1 Danielle Calvo</p> <p>2 Q. Did you take any action and</p> <p>3 response to it?</p> <p>4 A. Not that I remember.</p> <p>5 Q. So, you didn't try to curtail</p> <p>6 that threat or respond to it in any way?</p> <p>7 MR. THOMPSON: Object to the</p> <p>8 form, you can answer.</p> <p>9 A. I don't know if I knew about it</p> <p>10 and I don't know if I did, if I spoke to</p> <p>11 him or not.</p> <p>12 Q. In December of 2014 Defendant</p> <p>13 Smart stood up from where he was sitting,</p> <p>14 pointed directly at me with a spear hand</p> <p>15 and gave me the sign of the cross.</p> <p>16 Were you aware of that</p> <p>17 complaint that I filed with Defendant</p> <p>18 Gelbstein?</p> <p>19 MR. THOMPSON: Objection to the</p> <p>20 form. You can answer.</p> <p>21 A. I don't recall.</p> <p>22 Q. Do you recall reviewing any</p> <p>23 videotape with respect to that complaint?</p> <p>24 A. No, I don't recall.</p> <p>25 Q. Did you take any action in</p>
<p style="text-align: right;">Page 14</p> <p>1 Danielle Calvo</p> <p>2 with respect to Defendant Smart, did they</p> <p>3 go to your office as a clerical supervisor?</p> <p>4 MR. THOMPSON: Object as to</p> <p>5 form. You can answer.</p> <p>6 A. It depends on who the complaint</p> <p>7 was made to specifically.</p> <p>8 Q. If I submitted a complaint to</p> <p>9 Defendant Gelbstein, would become</p> <p>10 knowledgeable of it and have authority to</p> <p>11 act upon it?</p> <p>12 A. If you made the complaint to</p> <p>13 him, he may have told me about them, yes,</p> <p>14 but if you made it to him, then it would be</p> <p>15 up to him to make any decisions.</p> <p>16 Q. Now, in June of 2012 Defendant</p> <p>17 Smart pushed me from behind, assaulted me</p> <p>18 from behind reaching for my cell phone.</p> <p>19 Are aware of that complaint</p> <p>20 that I filed with Defendant Gelbstein, were</p> <p>21 you aware of that?</p> <p>22 MR. THOMPSON: Objection to the</p> <p>23 form.</p> <p>24 A. Not that I recall, but it's</p> <p>25 possible at the time I did.</p>	<p style="text-align: right;">Page 16</p> <p>1 Danielle Calvo</p> <p>2 response to that complaint?</p> <p>3 A. That I don't recall.</p> <p>4 Q. In June of 2012, Defendant</p> <p>5 Smart -- between December 11, 2011 and</p> <p>6 December 12, 2012, Defendant Smart stole</p> <p>7 \$80 on a \$150 fee.</p> <p>8 Were you aware of that, that he</p> <p>9 stole \$80 on a fee that was owed to me?</p> <p>10 MR. THOMPSON: Object to the</p> <p>11 form, you can answer.</p> <p>12 A. No, I was not.</p> <p>13 Q. Did you take any action in</p> <p>14 response to that complaint that I made to</p> <p>15 Defendant Gelbstein concerning that theft?</p> <p>16 A. I don't recall.</p> <p>17 Q. Was there an investigation made</p> <p>18 by your office, the clerical -- you, as a</p> <p>19 supervisor, with respect to that theft?</p> <p>20 A. I don't recall.</p> <p>21 Q. I made complaints to Defendant</p> <p>22 Gelbstein concerning that Defendant Smart,</p> <p>23 after I reported this theft, would get in</p> <p>24 my face, within several inches of my face</p> <p>25 and I would ask him what was the problem</p>

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<p style="text-align: right;">Page 17</p> <p>1 Danielle Calvo</p> <p>2 and he would respond "fuck you, you are the</p> <p>3 problem."</p> <p>4 Did you investigate any of</p> <p>5 those complaints?</p> <p>6 A. I don't recall.</p> <p>7 Q. So, pretty much Defendant Smart</p> <p>8 was given carte blanche to act as he wanted</p> <p>9 to in the Brooklyn TVB with respect to your</p> <p>10 office?</p> <p>11 MR. THOMPSON: Objection to the</p> <p>12 form of the question. You can</p> <p>13 answer.</p> <p>14 Q. You took no action and response</p> <p>15 to any of the threats of violence or</p> <p>16 harassment by Defendant Smart with respect</p> <p>17 to my person; is that fair to say?</p> <p>18 MR. THOMPSON: Same objection,</p> <p>19 you can answer.</p> <p>20 A. I don't recall what was done</p> <p>21 about any of those incidents.</p> <p>22 Q. I'm asking if you took any</p> <p>23 response, you made --</p> <p>24 A. I don't remember.</p> <p>25 Q. So, you gave Defendant Smart</p>	<p style="text-align: right;">Page 19</p> <p>1 Danielle Calvo</p> <p>2 A. Can you repeat that, I didn't</p> <p>3 understand?</p> <p>4 Q. You made no attempt to keep or</p> <p>5 preserve that evidence, that videotape of</p> <p>6 the alleged altercation between myself and</p> <p>7 Defendant Smart?</p> <p>8 MR. THOMPSON: Same objection.</p> <p>9 A. I don't know if it was</p> <p>10 videotaped and I don't recall what was --</p> <p>11 there is no way for me to keep or erase</p> <p>12 anything on there, unless someone would</p> <p>13 have told us how to do it.</p> <p>14 Q. So, you made no attempt to</p> <p>15 preserve it, you didn't make any phone</p> <p>16 calls to the security people who monitor</p> <p>17 these cameras to preserve that evidence,</p> <p>18 did you?</p> <p>19 MR. THOMPSON: Objection to the</p> <p>20 form.</p> <p>21 A. Not that I know of.</p> <p>22 Q. Did you ever view that</p> <p>23 videotape of the alleged incident between</p> <p>24 myself and Defendant Smart?</p> <p>25 A. Not that I recall.</p>
<p style="text-align: right;">Page 18</p> <p>1 Danielle Calvo</p> <p>2 carte blanche, freedom, to act the way he</p> <p>3 wanted to act; is that fair?</p> <p>4 MR. THOMPSON: Objection, asked</p> <p>5 and answered. Argumentative. You</p> <p>6 can answer.</p> <p>7 A. No, I did not.</p> <p>8 Q. Who is in control of the</p> <p>9 videotape at the Brooklyn TVB?</p> <p>10 MR. THOMPSON: Object to the</p> <p>11 form, you can answer.</p> <p>12 A. The cameras themselves -- um --</p> <p>13 the monitor was in the back office. There</p> <p>14 was no tape, it was directly to some type</p> <p>15 of hard drive.</p> <p>16 Q. Did you request that any of the</p> <p>17 videotape of May 11th be preserved or kept?</p> <p>18 A. Not that I recall.</p> <p>19 Q. So, you kept none of the</p> <p>20 evidence that would have shown the alleged</p> <p>21 altercation between myself and Defendant</p> <p>22 Smart on May 11, 2015?</p> <p>23 MR. THOMPSON: Objection to the</p> <p>24 form of the question. You can</p> <p>25 answer.</p>	<p style="text-align: right;">Page 20</p> <p>1 Danielle Calvo</p> <p>2 Q. Did you observe Defendant</p> <p>3 Gelbstein viewing that videotape in your</p> <p>4 presence?</p> <p>5 MR. THOMPSON: Objection to the</p> <p>6 form. You can answer.</p> <p>7 A. Not that I recall.</p> <p>8 Q. Did you ever observe Ida</p> <p>9 Traschen observe that videotape in your</p> <p>10 presence?</p> <p>11 A. No.</p> <p>12 Q. Now, there were many complaints</p> <p>13 written against me and my office while I</p> <p>14 was there at Brooklyn TVB by the clerical</p> <p>15 staff at the Brooklyn TVB.</p> <p>16 Is that fair to say -- is that</p> <p>17 a fair statement?</p> <p>18 A. Yes.</p> <p>19 Q. Is that a fair statement, they</p> <p>20 didn't like me?</p> <p>21 A. I can't say what they felt</p> <p>22 about it, I can only speak for myself.</p> <p>23 Q. Well, they made many complaints</p> <p>24 about me, that's fair, I mean, I have them.</p> <p>25 They were all kept by Defendant Gelbstein,</p>

5 (Pages 17 to 20)

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<p style="text-align: right;">Page 21</p> <p>1 Danielle Calvo</p> <p>2 they were all made by clerks, some by</p> <p>3 attorneys, one by a judge at the Brooklyn</p> <p>4 TVB and the clerks were under your</p> <p>5 supervision; right?</p> <p>6 MR. THOMPSON: Object to the</p> <p>7 form of the question, it's compound.</p> <p>8 You can answer.</p> <p>9 A. The clerks were under my</p> <p>10 supervision, but I did not ever tell them</p> <p>11 what to write.</p> <p>12 Q. But, you were privy to the</p> <p>13 complaints they made against me; am I</p> <p>14 right?</p> <p>15 A. I'm sure I was at that time,</p> <p>16 yes.</p> <p>17 MR. THOMPSON: Objection.</p> <p>18 Q. Did you investigate at any</p> <p>19 point the veracity or truthfulness of any</p> <p>20 of these complaints?</p> <p>21 A. I may have, I don't know.</p> <p>22 Q. You don't know.</p> <p>23 So, you don't know whether</p> <p>24 they're truthful or not; is that a fair</p> <p>25 statement?</p>	<p style="text-align: right;">Page 23</p> <p>1 Danielle Calvo</p> <p>2 me --</p> <p>3 A. I can't. I can't give you --</p> <p>4 MR. THOMPSON: Objection to the</p> <p>5 form of answer. You can answer.</p> <p>6 A. I can't give you a specific</p> <p>7 time or incident, but I remember speaking</p> <p>8 to you personally myself, asking you that</p> <p>9 if you had a problem with any of the</p> <p>10 clerks, to come speak to me directly as a</p> <p>11 supervisor and I told you that many times.</p> <p>12 Q. I never had a problem with any</p> <p>13 of your clerks, never.</p> <p>14 A. Excuse me?</p> <p>15 Q. Your clerks had a problem with</p> <p>16 me, they didn't like me. I'll get into</p> <p>17 that, but you can't give me one specific</p> <p>18 instance and one specific occurrence?</p> <p>19 MR. THOMPSON: Object to the</p> <p>20 form, asked and answered.</p> <p>21 Q. Can you give me one specific</p> <p>22 instance of where I verbally abused one of</p> <p>23 your clerks, the date, the time and exactly</p> <p>24 what I said, I'd like to know?</p> <p>25 A. No, I can't.</p>
<p style="text-align: right;">Page 22</p> <p>1 Danielle Calvo</p> <p>2 MR. THOMPSON: Objection to the</p> <p>3 form. You can answer.</p> <p>4 A. It depends on what exactly</p> <p>5 we're talking about, I don't know.</p> <p>6 Specific incidents? I don't remember</p> <p>7 specific incidents, but in general, I know</p> <p>8 that there was many times that there was</p> <p>9 problems.</p> <p>10 Q. Well, tell me one of the</p> <p>11 problems, please, tell me one; I want you</p> <p>12 to tell me one?</p> <p>13 MR. THOMPSON: Is that a</p> <p>14 question?</p> <p>15 Q. Yeah, tell me one of the</p> <p>16 problems that you experienced with me and</p> <p>17 your clerical staff, tell me one?</p> <p>18 A. That you would get aggressive</p> <p>19 with them, yelling at them.</p> <p>20 Q. Who, who, tell me who?</p> <p>21 A. I can't name specific names,</p> <p>22 you had a problem with everyone.</p> <p>23 Q. Well, tell me who, can you name</p> <p>24 one; can you name one and tell me a</p> <p>25 specific date and a specific instance, tell</p>	<p style="text-align: right;">Page 24</p> <p>1 Danielle Calvo</p> <p>2 Q. Are you familiar with</p> <p>3 corruption at the New York TVB, are you</p> <p>4 familiar corruption and allegations of</p> <p>5 corruption at the New York TVBs?</p> <p>6 MR. THOMPSON: Objection to the</p> <p>7 form of the question, you can answer.</p> <p>8 A. No.</p> <p>9 Q. You're not.</p> <p>10 Let me direct you to Exhibit 4.</p> <p>11 Let me show you Exhibit 4.</p> <p>12 (Whereupon, Plaintiff's Exhibit</p> <p>13 4, previously marked, was</p> <p>14 introduced.)</p> <p>15 Q. Are you familiar with this</p> <p>16 article, DMV clerk accused of taking bribes</p> <p>17 for years in ticket fixing schemes.</p> <p>18 Do you have any knowledge of</p> <p>19 this article?</p> <p>20 A. It does not look familiar, no.</p> <p>21 Q. Are you familiar with ticket</p> <p>22 fixing schemes at the TVB in New York?</p> <p>23 A. Am I? No, I'm not.</p> <p>24 Q. As a clerical supervisor,</p> <p>25 you're not familiar with the clerks taking</p>

6 (Pages 21 to 24)

EXHIBIT J

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Page 1	Page 3
<p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK -----X MARIO H. CAPOGROSSO, PLAINTIFF, -against- Case No.: 18 CV 2710 (EK) (LB) ALAN GELBSTEIN, in his individual capacity, IDA TRASCHEN, in her individual capacity, DANIELLE CALVO, in her capacity, SADIQ TAHIR, in his individual capacity, PEC GROUP OF NY, INC., DAVID SMART, and DMV COMMISSIONER MARK SCHROEDER, in his official capacity, DEFENDANTS. -----X DATE: December 17, 2020 TIME: 10:16 A.M. DEPOSITION of the Defendant, ALAN GELBSTEIN, taken by the Plaintiff, pursuant to a Notice and to the Federal Rules of Civil Procedure, held VIA ZOOM VIDEOCONFERENCE, before Jamie Newman, a Notary Public of the State of New York.</p>	<p>1 ALAN GELBSTEIN 2 (Whereupon, all 86 exhibits 3 were previously marked by Counsel, 4 Mr. Capogrosso.) 5 ALAN GELBSTEIN, called as a 6 witness, having been first duly affirmed by 7 a Notary Public of the State of New York, 8 was examined and testified as follows: 9 EXAMINATION BY 10 MR. CAPOGROSSO: 11 Q. Please state your name for the 12 record. 13 A. Alan Gelbstein. 14 Q. What is your address? 15 A. 1570 East 7th Street, Brooklyn, 16 New York 11230. 17 Q. Defendant Gelbstein we're here 18 today because I need to take your 19 deposition concerning the action filed 20 against you, myself and several other 21 defendants. 22 THE COURT REPORTER: Wait, 23 wait, you're breaking up Counsel. 24 Counsel, you're breaking up so I 25 can't hear you.</p>
Page 2	Page 4
<p>1 2 APPEARANCES: 3 4 THE LAW FIRM OF MARIO H. CAPOGROSSO 5 PLAINTIFF PRO SE 6 21 Sheldrake Place 7 New Rochelle, New York 10804 8 capogrosso@gmail.com 9 10 OFFICE OF THE NEW YORK STATE 11 ATTORNEY GENERAL 12 Attorneys for the Defendants 13 ALAN GELBSTEIN, in his individual 14 capacity, IDA TRASCHEN, in her individual 15 capacity, DANIELLE CALVO, in her 16 capacity, SADIQ TAHIR, in his individual 17 capacity, PEC GROUP OF NY, INC., DAVID 18 SMART, and DMV COMMISSIONER MARK 19 SCHROEDER, in his official capacity 20 28 Liberty Street, 17th Floor 21 New York, New York 10005 22 BY: JAMES THOMPSON, ESQ. 23 james.thompson@ag.ny.gov 24 25 DMV LEGAL BUREAU 26 Attorneys for the Defendant 27 DMV COMMISSIONER MARK SCHROEDER, in his 28 official capacity 29 6 Empire State Plaza, Room 522A 30 Albany, New York 12238 31 BY: BARBARA MONTENA, ESQ. 32 File #: 18CV2710 33 barbara.montena@dmv.ny.gov 34 35 * * * *</p>	<p>1 ALAN GELBSTEIN 2 MR. CAPOGROSSO: Can you hear 3 me now? 4 THE COURT REPORTER: You are 5 still breaking up, it's not the best 6 connection. I could hear you, but it 7 goes in and out. 8 MR. CAPOGROSSO: Can you hear 9 me now? 10 THE COURT REPORTER: It goes in 11 and out. 12 MR. CAPOGROSSO: Let me ask a 13 few more questions and see how we do. 14 Is that all right? 15 THE COURT REPORTER: That's 16 fine. 17 Q. These questions are all going 18 to be directed to Defendant, Gelbstein. 19 Were you in the Brooklyn 20 Traffic Violation Bureau on the morning of 21 May 11, 2015? 22 A. At some point, yes. 23 Q. At what point did you arrive at 24 the Brooklyn Traffic Violation Bureau on 25 that day?</p>

1 (Pages 1 to 4)

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Page 5	Page 7
<p>1 ALAN GELBSTEIN</p> <p>2 A. I arrived late, I don't recall</p> <p>3 the time.</p> <p>4 Q. Did you arrive after my removal</p> <p>5 on that day?</p> <p>6 A. Yes.</p> <p>7 Q. What are your normal business</p> <p>8 hours at the Brooklyn TVB?</p> <p>9 A. Business hours I believe are</p> <p>10 8:30 to 4:30.</p> <p>11 Q. So, why were you late that day?</p> <p>12 A. I had some personal things to</p> <p>13 attend to.</p> <p>14 Q. Did you not want to be in the</p> <p>15 building that day for any reason?</p> <p>16 A. No, sir.</p> <p>17 Q. Now, I was removed that day on</p> <p>18 May 11, 2015 under your direction?</p> <p>19 A. I beg your pardon.</p> <p>20 MR. THOMPSON: Objection to the</p> <p>21 form of the question.</p> <p>22 Q. I was removed that day from the</p> <p>23 Brooklyn TVB by your direction, do you</p> <p>24 recall doing that?</p> <p>25 MR. THOMPSON: Objection to the</p>	<p>1 ALAN GELBSTEIN</p> <p>2 THE COURT REPORTER: That's my</p> <p>3 impression, but if I put it on the</p> <p>4 screen you have to wait because I</p> <p>5 can't have my hands off the machine,</p> <p>6 but yeah, if that's what you want me</p> <p>7 to do.</p> <p>8 MR. CAPOGROSSO: Well, I</p> <p>9 already forwarded all the exhibits to</p> <p>10 counsel, attorney Thompson. So,</p> <p>11 attorney Thompson, do you not have</p> <p>12 this exhibit?</p> <p>13 MR. THOMPSON: I do have the</p> <p>14 exhibit, but I think it would be best</p> <p>15 if it were put on the screen so</p> <p>16 everyone can see it.</p> <p>17 MR. CAPOGROSSO: Well, it's</p> <p>18 actually Exhibit 69. Exhibit 69.</p> <p>19 THE COURT REPORTER: Is that</p> <p>20 what you would like me to put up?</p> <p>21 MR. CAPOGROSSO: No, actually,</p> <p>22 it's Exhibit 68. Exhibit 68, let's</p> <p>23 start with that one.</p> <p>24 THE COURT REPORTER: Are these</p> <p>25 already marked, Counsel?</p>
Page 6	Page 8
<p>1 ALAN GELBSTEIN</p> <p>2 form of the question. You can</p> <p>3 answer.</p> <p>4 Q. Do you recall having me removed</p> <p>5 from the Brooklyn TVB on May 11, 2015?</p> <p>6 A. I don't believe that is</p> <p>7 correct.</p> <p>8 Q. You don't recall having me</p> <p>9 removed?</p> <p>10 A. I did not have you removed.</p> <p>11 Q. You did not?</p> <p>12 A. No.</p> <p>13 Q. Let me take you back -- lets</p> <p>14 goes to Exhibit 70. Exhibit 70 that I have</p> <p>15 marked, Plaintiff's Exhibit 70.</p> <p>16 Are you in possession of</p> <p>17 Plaintiff's Exhibit 70?</p> <p>18 A. I am not.</p> <p>19 Q. Is your attorney, Thompson, in</p> <p>20 possession of it?</p> <p>21 MR. THOMPSON: My understanding</p> <p>22 and Madame Court Reporter correct me</p> <p>23 if I'm wrong, you're going to be</p> <p>24 putting the exhibits up on the</p> <p>25 screen; is that correct?</p>	<p>1 ALAN GELBSTEIN</p> <p>2 MR. CAPOGROSSO: It's marked as</p> <p>3 Plaintiff's Exhibit 68. Scroll down</p> <p>4 to the first page.</p> <p>5 (Whereupon, Plaintiff's Exhibit</p> <p>6 68, previously marked, was</p> <p>7 introduced.)</p> <p>8 Q. This is a work violence police</p> <p>9 report, are you familiar with this document</p> <p>10 Exhibit 68?</p> <p>11 A. Yes, I am.</p> <p>12 Q. Are you familiar with the</p> <p>13 person at the top David Smart?</p> <p>14 A. Yes.</p> <p>15 Q. Now, I ask you take a look at</p> <p>16 the second page.</p> <p>17 Right there under additional</p> <p>18 comments and I would like you to take note</p> <p>19 of the third line of that page which reads</p> <p>20 "I was told by Judge Gelbstein to go with</p> <p>21 officers from the police room to tell Mr.</p> <p>22 Capogrosso that he must leave the building</p> <p>23 and give him a legal phone number for any</p> <p>24 further details. I did that and he left</p> <p>25 the building."</p>

2 (Pages 5 to 8)

Page 9

1 ALAN GELBSTEIN
 2 Now, that is a statement made
 3 by Danielle Calvo, would you agree to that?
 4 A. Yes.
 5 Q. And you're saying that you did
 6 not order Danielle Calvo to have me
 7 removed?
 8 A. I may have, I -- I may have,
 9 yes.
 10 Q. So, which one is it, you had me
 11 removed on that day?
 12 A. I didn't physically remove you,
 13 I was, as I recall vaguely, I can't say
 14 with absolute certainty, that they called
 15 me telephonically and relayed what occurred
 16 and at some point I imagine because it says
 17 so here, I must have told her to have you
 18 removed and to give you legal counsel's
 19 phone number.
 20 Q. Well, who called you on that
 21 morning?
 22 A. I believe it was Danielle.
 23 Q. Danielle.
 24 And what time did she call you?
 25 A. I beg your pardon.

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1 ALAN GELBSTEIN
 2 Q. And what time did she call you?
 3 A. I don't recall the time.
 4 Q. Now, there was a videotape of
 5 this alleged altercation between myself and
 6 Defendant Smart, did you observe that
 7 videotape?
 8 MR. THOMPSON: I'm going to
 9 object to the form of the question.
 10 Q. Did you observe the video --
 11 you still have to -- did you observe the
 12 videotape of the alleged push?
 13 MR. THOMPSON: Note my
 14 objection, you can answer.
 15 A. I don't recall whether I did or
 16 not.
 17 Q. So, you don't recall ever
 18 observing the videotape?
 19 A. I don't recall, no.
 20 Q. Did you keep possession of that
 21 videotape?
 22 A. I personally did not.
 23 Q. At any point in time did you
 24 view that videotape?
 25 A. I don't recall.

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1 ALAN GELBSTEIN
 2 MR. THOMPSON: Objection, asked
 3 and answered.
 4 Q. Did you have me removed from
 5 the Brooklyn TVB based on that videotape,
 6 did you?
 7 A. I would have -- assuming that I
 8 saw it, which I don't recall I did, it
 9 would have been probably well after the
 10 fact.
 11 Q. So, you're having me thrown out
 12 based on an allegation made by Danielle
 13 Calvo, is that it?
 14 MR. THOMPSON: Objection to the
 15 form of the question.
 16 Q. Is that correct?
 17 A. I believe based on what she
 18 told me, we took action.
 19 Q. And did you ask Danielle Calvo
 20 if she viewed the videotape?
 21 A. Did I ask her if she viewed it?
 22 Q. Yes.
 23 A. I did not ask her.
 24 Q. Did you approach me on the
 25 afternoon May 8th and said, "I saw what you

Page 12

1 ALAN GELBSTEIN
 2 wrote about me," concerning a letter I
 3 wrote to Attorney General Prickett-Morgan
 4 that I called you complacent, incompetent
 5 and incapable.
 6 Do you recall approaching me on
 7 the afternoon of May 8th?
 8 A. I do not.
 9 Q. And did you say to me on the
 10 afternoon of May 8th, "can't you go
 11 practice somewhere else"?
 12 A. I don't remember saying that to
 13 you at all.
 14 Q. Were you predisposed to having
 15 me removed from the Brooklyn TVB?
 16 A. I was not.
 17 Q. Were you conveniently not
 18 present at the Brooklyn TVB on the morning
 19 of May 11th; sir, did you not happen to
 20 view the videotape or the incident between
 21 myself and Defendant Smart?
 22 MR. THOMPSON: Objection.
 23 A. I'm not sure I understand the
 24 question.
 25 Q. Were you purposefully not

3 (Pages 9 to 12)

<p style="text-align: right;">Page 13</p> <p>1 ALAN GELBSTEIN</p> <p>2 available at the Brooklyn TVB on the</p> <p>3 morning of May 11, 2015?</p> <p>4 MR. THOMPSON: Objection.</p> <p>5 (Whereupon, there was</p> <p>6 cross-talk, so Counsel re-asked the</p> <p>7 question.)</p> <p>8 Q. Were you purposefully not</p> <p>9 available on the morning of May 11, 2015?</p> <p>10 A. No.</p> <p>11 Q. Did you tell Defendant Smart to</p> <p>12 approach me on the morning of May 11, 2015</p> <p>13 and create an incident between myself and</p> <p>14 him?</p> <p>15 MR. THOMPSON: Objection,</p> <p>16 compound. You can answer.</p> <p>17 THE WITNESS: I didn't hear</p> <p>18 you, Counsel?</p> <p>19 Q. Did you tell?</p> <p>20 THE WITNESS: I heard you, I</p> <p>21 didn't hear Mr. Thompson said</p> <p>22 something.</p> <p>23 MR. THOMPSON: Objection,</p> <p>24 compound, but you can answer the</p> <p>25 question.</p>	<p style="text-align: right;">Page 15</p> <p>1 ALAN GELBSTEIN</p> <p>2 can answer.</p> <p>3 A. I don't know who viewed it.</p> <p>4 Q. Did Ida Traschen view the</p> <p>5 videotape before she had me removed --</p> <p>6 before she told me that I was not allowed</p> <p>7 to practice law in the Brooklyn TVB or any</p> <p>8 New York TVB?</p> <p>9 MR. THOMPSON: Objection to the</p> <p>10 form.</p> <p>11 A. I don't know if Ida Traschen</p> <p>12 observed it.</p> <p>13 Q. Did you have a conversation</p> <p>14 with Ida Traschen on the morning of May 11,</p> <p>15 2015?</p> <p>16 A. I do not recall with certainty</p> <p>17 whether I did or not.</p> <p>18 Q. Ida Traschen did not call you</p> <p>19 and question you concerning my removal on</p> <p>20 the morning of May 11, 2015?</p> <p>21 MR. THOMPSON: I'm going to</p> <p>22 object on the basis of</p> <p>23 attorney/client privilege and work</p> <p>24 product, the contents of any</p> <p>25 conversation between Judge Gelbstein</p>
<p style="text-align: right;">Page 14</p> <p>1 ALAN GELBSTEIN</p> <p>2 A. Repeat the question, please.</p> <p>3 Q. Did you tell Defendant Smart to</p> <p>4 approach me on the morning of May 11, 2015?</p> <p>5 A. No.</p> <p>6 Q. Do you have authority over the</p> <p>7 actions of Defendant Smart at the Brooklyn</p> <p>8 TVB?</p> <p>9 MR. THOMPSON: Objection to the</p> <p>10 form of question, you can answer.</p> <p>11 A. I do.</p> <p>12 Q. You do?</p> <p>13 A. Yes.</p> <p>14 Q. Who viewed the evidence on the</p> <p>15 morning of May 11, 2015 of this alleged</p> <p>16 push, other than Danielle Calvo?</p> <p>17 MR. THOMPSON: I'm having a</p> <p>18 hard time hearing what you're saying,</p> <p>19 Mr. Capogrosso.</p> <p>20 Q. Who viewed the evidence of this</p> <p>21 alleged push, who viewed the videotape on</p> <p>22 the morning of May 11, 2015, other than</p> <p>23 Danielle Calvo?</p> <p>24 MR. THOMPSON: Objection,</p> <p>25 assumes facts not in evidence. You</p>	<p style="text-align: right;">Page 16</p> <p>1 ALAN GELBSTEIN</p> <p>2 and Ida Traschen who is counsel of</p> <p>3 DMV that is a legal conversation.</p> <p>4 And so, Judge Gelbstein I'll</p> <p>5 instruct you not to answer any</p> <p>6 question what you said to Ida and</p> <p>7 what Ida said to you.</p> <p>8 Q. You still have to answer the</p> <p>9 question, did you have a conversation with</p> <p>10 Ida Traschen?</p> <p>11 A. I don't recall.</p> <p>12 Q. Were you in possession of a</p> <p>13 letter that I wrote on March 20, 2015, to</p> <p>14 Attorney General Prickett-Morgan?</p> <p>15 A. I believe I was furnished a</p> <p>16 copy of that letter.</p> <p>17 Q. When were you furnished a copy</p> <p>18 of that letter?</p> <p>19 A. I don't know the date, it was</p> <p>20 part of an e-mail.</p> <p>21 Q. Was it prior to the event, the</p> <p>22 alleged push on May 11, 2015?</p> <p>23 A. I couldn't tell you, I don't</p> <p>24 know.</p> <p>25 THE COURT REPORTER: What is</p>

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Page 17	Page 19
<p>1 ALAN GELBSTEIN</p> <p>2 Cricket's last name?</p> <p>3 MR. CAPOGROSSO:</p> <p>4 Pricket-Morgan, M-U-R-G-A-N. Pricket</p> <p>5 is also her last name.</p> <p>6 MR. THOMPSON: It's hyphenated,</p> <p>7 Pricket-Morgan.</p> <p>8 Q. You don't recall when you came</p> <p>9 in possession of a letter of May 11, 2015?</p> <p>10 A. Not at this time. It's been</p> <p>11 five years and I did not review it, I</p> <p>12 couldn't tell you.</p> <p>13 Q. Was that letter forwarded to</p> <p>14 you directly by Attorney General</p> <p>15 Pricket-Morgan?</p> <p>16 A. No.</p> <p>17 Q. Did you address any of the</p> <p>18 complaints that I made in that letter of</p> <p>19 March 20, 2015?</p> <p>20 A. I don't remember with</p> <p>21 specificity what the complaints were.</p> <p>22 Q. Well, I will get that letter</p> <p>23 for you now, but did you take any action</p> <p>24 with respect to that letter?</p> <p>25 A. Again, if I don't know -- if I</p>	<p>1 ALAN GELBSTEIN</p> <p>2 MR. CAPOGROSSO: I'll withdraw</p> <p>3 that question.</p> <p>4 Q. Now, I made certain complaints</p> <p>5 against Defendant Smart which I brought to</p> <p>6 your attention in this letter. I ask you</p> <p>7 to look down that page.</p> <p>8 MR. CAPOGROSSO: If you can</p> <p>9 scroll down the page, please.</p> <p>10 THE COURT REPORTER: Sure.</p> <p>11 Q. Now, Item Number 1, I'll draw</p> <p>12 your attention to Item Number 1, I state</p> <p>13 that your security guard David Sparks to me</p> <p>14 repeated times "to go fuck myself."</p> <p>15 Do you see that statement?</p> <p>16 A. I do.</p> <p>17 Q. You did.</p> <p>18 Did you take any action in</p> <p>19 response to that statement, did you rectify</p> <p>20 it?</p> <p>21 A. Your statement does not seem to</p> <p>22 be addressed to me for me to take action</p> <p>23 upon David Sparks.</p> <p>24 Q. Did I ever make a complaint to</p> <p>25 your office concerning that type of</p>
Page 18	Page 20
<p>1 ALAN GELBSTEIN</p> <p>2 don't recall the contents, I couldn't tell</p> <p>3 you what my reaction would be.</p> <p>4 Q. Fine, let me get you the</p> <p>5 letter. Let's go to Exhibit 15.</p> <p>6 (Whereupon, Plaintiff's Exhibit</p> <p>7 15, previously marked, was</p> <p>8 introduced.)</p> <p>9 Q. Defendant Gelbstein, do you</p> <p>10 recall receiving this letter?</p> <p>11 A. Yes, I saw this letter.</p> <p>12 Q. When did you see it?</p> <p>13 A. I don't recall the first time I</p> <p>14 saw it. As I said, it was attached to an</p> <p>15 e-mail I received.</p> <p>16 Q. And it's dated March 20th; is</p> <p>17 that correct?</p> <p>18 A. Yes.</p> <p>19 Q. 2015?</p> <p>20 A. Yes.</p> <p>21 Q. The incident between myself and</p> <p>22 Defendant Smart, this alleged push occurred</p> <p>23 on May 11th, am I right?</p> <p>24 A. I don't know what you're</p> <p>25 looking at. I beg your pardon.</p>	<p>1 ALAN GELBSTEIN</p> <p>2 behavior?</p> <p>3 A. You have come in to my office</p> <p>4 to complain about security guard David</p> <p>5 Sparks, yes.</p> <p>6 Q. And what did you do in response</p> <p>7 to those complaints?</p> <p>8 A. On each -- well, I don't know</p> <p>9 how many times you came in. I remember you</p> <p>10 coming in, I called David Sparks in and I</p> <p>11 told him that if he said anything</p> <p>12 derogatory or had an altercation with you,</p> <p>13 he has to keep far away from you. Whenever</p> <p>14 he sees you, he should go in the opposite</p> <p>15 direction.</p> <p>16 Q. But, he didn't obey that order,</p> <p>17 did he?</p> <p>18 A. I don't know that to be</p> <p>19 correct, sir.</p> <p>20 Q. Well, he did approach me on the</p> <p>21 morning of May 11, 2015; right?</p> <p>22 A. I don't know that to be the</p> <p>23 case, sir.</p> <p>24 Q. The police reports -- you</p> <p>25 didn't -- I mean, after Defendant Smart</p>

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<p style="text-align: right;">Page 21</p> <p>1 ALAN GELBSTEIN</p> <p>2 approached me on May 11, 2015, you didn't</p> <p>3 view that videotape at any point</p> <p>4 thereafter?</p> <p>5 MR. THOMPSON: Objection to the</p> <p>6 form of the question.</p> <p>7 THE WITNESS: Answer?</p> <p>8 MR. THOMPSON: You may answer.</p> <p>9 Q. After he approached me on</p> <p>10 May 11th --</p> <p>11 THE COURT REPORTER: Wait, the</p> <p>12 connection is not good. This is not</p> <p>13 a good connection.</p> <p>14 MR. CAPOGROSSO: Give me one</p> <p>15 minute, maybe if I move my laptop to</p> <p>16 a different location maybe I can get</p> <p>17 a better connection. Can you give me</p> <p>18 one minute to do that?</p> <p>19 THE COURT REPORTER: Sure.</p> <p>20 MR. CAPOGROSSO: Can you hear</p> <p>21 me better, Ma'am?</p> <p>22 THE COURT REPORTER: Yes, I</p> <p>23 can. The witness was trying to</p> <p>24 answer, but the connection got all</p> <p>25 messed up.</p>	<p style="text-align: right;">Page 23</p> <p>1 ALAN GELBSTEIN</p> <p>2 Defendant Smart and telling me "a spade is</p> <p>3 a spade"?</p> <p>4 A. Are you reading something else</p> <p>5 in the letter now?</p> <p>6 Q. Yes, the second page down.</p> <p>7 A. I see the paragraph.</p> <p>8 Q. Do you recall laughing and</p> <p>9 giggling at me and telling me "a spade is a</p> <p>10 spade" when I complained about Defendant</p> <p>11 Smart's action?</p> <p>12 A. I didn't hear you. Can you</p> <p>13 repeat the question?</p> <p>14 Q. Do you recall laughing and</p> <p>15 giggling at me and telling me "a spade is a</p> <p>16 spade" when I complained of Defendant's</p> <p>17 Smart's actions?</p> <p>18 A. No.</p> <p>19 Q. Many Affidavits were written by</p> <p>20 your clerks, by attorneys, by a judge</p> <p>21 against me and they were all presented to</p> <p>22 me for the first time in Defendant's Motion</p> <p>23 to Dismiss.</p> <p>24 Are you familiar with those</p> <p>25 complaints and Affidavits of misconduct?</p>
<p style="text-align: right;">Page 22</p> <p>1 ALAN GELBSTEIN</p> <p>2 A. The answer is, I don't recall</p> <p>3 ever seeing the tape.</p> <p>4 Q. All right.</p> <p>5 Directing your attention to the</p> <p>6 that third question that I made complaints</p> <p>7 to the office that your security guard</p> <p>8 stared and glared at me and would get in my</p> <p>9 face and say FU.</p> <p>10 Do you recall that?</p> <p>11 A. I missed the question, say it</p> <p>12 again, please.</p> <p>13 Q. I made a complaint that your</p> <p>14 security guard Defendant Smart would get in</p> <p>15 my face and stare and glare at me.</p> <p>16 Do you recall me making a</p> <p>17 complaint to your office concerning that?</p> <p>18 A. I just read Number 3 and what</p> <p>19 is your question with regard to Number 3?</p> <p>20 Q. Do you recall me making that</p> <p>21 complaint to your office?</p> <p>22 A. No, I do not.</p> <p>23 Q. At one point in time did you</p> <p>24 laugh and giggle at me when I was telling</p> <p>25 you about these complaints concerning</p>	<p style="text-align: right;">Page 24</p> <p>1 ALAN GELBSTEIN</p> <p>2 MR. THOMPSON: Objection to</p> <p>3 form, you can answer.</p> <p>4 A. I don't know which ones</p> <p>5 specifically you are referring to, but yes,</p> <p>6 I did receive complaints.</p> <p>7 Q. All right, fine.</p> <p>8 Did you ever give me an</p> <p>9 opportunity to response to any of those</p> <p>10 complaints?</p> <p>11 A. I'm not sure if -- I need</p> <p>12 clarification on your question. If the</p> <p>13 question is if there were specificity in</p> <p>14 the particular complaint, is it your</p> <p>15 question did I ask you --</p> <p>16 Q. I'll rephrase the question.</p> <p>17 Did you ever approach me with a</p> <p>18 complaint and ask me to respond to it?</p> <p>19 A. Yes.</p> <p>20 Q. You presented me with a written</p> <p>21 complaint and asked me to respond?</p> <p>22 A. No. I never gave you a written</p> <p>23 complaint to respond to.</p> <p>24 Q. You did not?</p> <p>25 A. No.</p>

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<p style="text-align: right;">Page 25</p> <p>1 ALAN GELBSTEIN</p> <p>2 Q. So, I had no opportunity to</p> <p>3 respond to any of these complaints that</p> <p>4 either your clerks were making or attorneys</p> <p>5 were making or even a judge made, you gave</p> <p>6 me no opportunity to respond before having</p> <p>7 me removed; is that fair?</p> <p>8 MR. THOMPSON: Objection to</p> <p>9 form.</p> <p>10 A. No, it's not fair.</p> <p>11 Q. At what point in time did you</p> <p>12 give me an opportunity to respond?</p> <p>13 A. As complaints came in over a</p> <p>14 period of time, whenever there was a</p> <p>15 complaint lodged and it was more serious,</p> <p>16 there were complaints I thought pay, but it</p> <p>17 was a more serious, I would call you in and</p> <p>18 I would tell you other complaints and I</p> <p>19 would tell you to cease and desist and you</p> <p>20 would promise that you would.</p> <p>21 And that was the end of the</p> <p>22 discussion with any particular complaint.</p> <p>23 Q. Well, tell me which complaint</p> <p>24 you did that because I don't recall it,</p> <p>25 tell me, tell me the exact complaint?</p>	<p style="text-align: right;">Page 27</p> <p>1 ALAN GELBSTEIN</p> <p>2 Brooklyn TVB?</p> <p>3 A. Could you repeat the question?</p> <p>4 Q. Did you use these complaints to</p> <p>5 have me removed from the Brooklyn TVB?</p> <p>6 MR. THOMPSON: I object to the</p> <p>7 form, you can answer.</p> <p>8 A. From the cumulative complaints,</p> <p>9 no one complaint in and of itself was the</p> <p>10 deciding factor. It was a cumulation of</p> <p>11 complaints over a period of time.</p> <p>12 Q. And you just accepted all those</p> <p>13 complaints as true without asking for my</p> <p>14 affidavit in response; is that a fair</p> <p>15 statement?</p> <p>16 A. I did not ask for an affidavit</p> <p>17 in response.</p> <p>18 Q. Well, let me draw your</p> <p>19 attention to a couple of those complaints</p> <p>20 that you said you investigated the</p> <p>21 truthfulness and veracity of if I may for</p> <p>22 which you had me removed from the Brooklyn</p> <p>23 TVB.</p> <p>24 I'll ask you to take a look at</p> <p>25 specifically one that was made by your</p>
<p style="text-align: right;">Page 26</p> <p>1 ALAN GELBSTEIN</p> <p>2 A. At this time I don't recall</p> <p>3 specificity, but as I said before, whenever</p> <p>4 I felt a complaint and not a minor</p> <p>5 complaint, a serious complaint required my</p> <p>6 intervention, I called you in and we had a</p> <p>7 discussion in my office.</p> <p>8 Q. But, you don't recall the date</p> <p>9 that you called me in or the complaint that</p> <p>10 you asked me to address?</p> <p>11 A. Right.</p> <p>12 Q. And you never asked me for a</p> <p>13 written reply to any complaint; is that</p> <p>14 fair?</p> <p>15 A. That's fair.</p> <p>16 Q. Did you ever investigate the</p> <p>17 veracity or truthfulness of any of these</p> <p>18 complaints?</p> <p>19 A. I did.</p> <p>20 Q. Or did you just accept them as</p> <p>21 truthful?</p> <p>22 A. I investigated to the best of</p> <p>23 my recollection every serious complaint.</p> <p>24 Q. And you used these complaints</p> <p>25 of misconduct to have me removed from the</p>	<p style="text-align: right;">Page 28</p> <p>1 ALAN GELBSTEIN</p> <p>2 chief clerk, your chief clerk which is</p> <p>3 Exhibit -- let's see -- 84? 84. Can we go</p> <p>4 to Exhibit 85, I'm sorry, 85.</p> <p>5 (Whereupon, Plaintiff's Exhibit</p> <p>6 85, previously marked, was</p> <p>7 introduced.)</p> <p>8 Q. Are you familiar with Melanie</p> <p>9 Levine?</p> <p>10 A. Yes.</p> <p>11 Q. Who is Melanie, M-E-L-A-N-I-E,</p> <p>12 Levine?</p> <p>13 A. She, at the time, was a</p> <p>14 supervisor in the clerical office.</p> <p>15 Q. So, she was a supervisor of</p> <p>16 your clerks, am I right in saying that?</p> <p>17 A. She was a supervisor of some of</p> <p>18 the clerks. She was not the head clerk,</p> <p>19 she was a principal clerk.</p> <p>20 MR. CAPOGROSSO: Can you please</p> <p>21 scroll down, Ma'am, to the next page.</p> <p>22 (Whereupon, the Court Reporter</p> <p>23 complied.)</p> <p>24 Q. I'll direct you to the first</p> <p>25 paragraph on the next page, right there,</p>

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<p style="text-align: right;">Page 29</p> <p>1 ALAN GELBSTEIN</p> <p>2 thank you. Now, I'll direct you to first</p> <p>3 paragraph where your clerk of supervisors</p> <p>4 states, "attorney Capogrosso represented</p> <p>5 Mr. Perez at trial for three violations on</p> <p>6 January 21, 2015."</p> <p>7 MR. THOMPSON: I think he's</p> <p>8 referring to the previous page,</p> <p>9 Page 3.</p> <p>10 THE COURT REPORTER: That's</p> <p>11 what I thought, but his connection is</p> <p>12 slower. This, this is Page 3, so</p> <p>13 give it a second to catch up. You</p> <p>14 want Page 4, the handwritten portion.</p> <p>15 MR. CAPOGROSSO: The one before</p> <p>16 that, Ma'am. Further up Ma'am --</p> <p>17 right there.</p> <p>18 Q. Did you investigate that</p> <p>19 complaint, Defendant Gelbstein?</p> <p>20 A. I don't recall if I</p> <p>21 specifically investigated this complaint.</p> <p>22 Q. So. You don't know the</p> <p>23 voracity or truthfulness of that complaint;</p> <p>24 is that a fair statement?</p> <p>25 A. I don't recall at this time.</p>	<p style="text-align: right;">Page 31</p> <p>1 ALAN GELBSTEIN</p> <p>2 Q. Well, let me tell you what</p> <p>3 happened with this complaint, Mr. Perez did</p> <p>4 not hire me to represent him on three</p> <p>5 violations, he did not. He hired me on</p> <p>6 appeal the day after he lost and was</p> <p>7 suspended in a courthouse by one of your</p> <p>8 judges on these violations, that's what</p> <p>9 happened.</p> <p>10 And he hired me on the appeal</p> <p>11 and I took the appeal and then he came back</p> <p>12 the next day and what he told me was that</p> <p>13 his license got suspended and revoked. And</p> <p>14 he said to me I want my --</p> <p>15 MR. THOMPSON: Note my</p> <p>16 objection.</p> <p>17 Q. -- Mr. Perez did not hire me on</p> <p>18 those violations and you never investigated</p> <p>19 that now, did you Mr. Gelbstein?</p> <p>20 MR. THOMPSON: Note my</p> <p>21 objection, you can answer.</p> <p>22 A. I don't recall with specificity</p> <p>23 what I did at the time. I'm aware of the</p> <p>24 complaint, I don't remember if I spoke to</p> <p>25 him or not. I don't recall.</p>
<p style="text-align: right;">Page 30</p> <p>1 ALAN GELBSTEIN</p> <p>2 Q. But, you used this as one of</p> <p>3 the complaints of misconduct to have me</p> <p>4 removed; is that right?</p> <p>5 A. This is one of many, yes.</p> <p>6 Q. And you know I never</p> <p>7 represented Mr. Perez on January 11, 2015,</p> <p>8 you know that; right?</p> <p>9 A. I do not.</p> <p>10 Q. Well, she's making a false</p> <p>11 statement. You could have investigated it,</p> <p>12 but you didn't investigate it now, did you?</p> <p>13 MR. THOMPSON: Objection to the</p> <p>14 form of the question. You can</p> <p>15 answer.</p> <p>16 A. I don't recall the particular</p> <p>17 complaint now with specificity and what</p> <p>18 actions I took with regard to this. I</p> <p>19 don't recall whether I spoke to Paul Perez</p> <p>20 or not. I may have, I don't recall.</p> <p>21 Q. Did you ever talk to me about</p> <p>22 this complaint?</p> <p>23 A. Again, I don't remember with</p> <p>24 specificity with this particular complaint</p> <p>25 whether I spoke to you on it or not.</p>	<p style="text-align: right;">Page 32</p> <p>1 ALAN GELBSTEIN</p> <p>2 Q. But, you never took my</p> <p>3 affidavit in response; right?</p> <p>4 MR. THOMPSON: Objection, asked</p> <p>5 and answered, you can respond.</p> <p>6 Q. Now, you know what happened</p> <p>7 that day Mr. Perez approached me, after I</p> <p>8 gave him his money back and he told me he</p> <p>9 was going to cut me with a knife and the</p> <p>10 slash the tires of my car, you understand</p> <p>11 that, that's what he said to me?</p> <p>12 MR. THOMPSON: Objection,</p> <p>13 assumes fact not in evidence.</p> <p>14 A. I wasn't there when you had the</p> <p>15 conversation, I don't know what he said to</p> <p>16 nor do I know what you said to him.</p> <p>17 Q. But, you never took my</p> <p>18 statement in reference to that complaint</p> <p>19 now did you?</p> <p>20 A. Again, I don't recall the</p> <p>21 specific conversation we had with regard to</p> <p>22 it, if we didn't have a conversation.</p> <p>23 Q. You never had a conversation</p> <p>24 with me concerning this complaint because</p> <p>25 there's no affidavit attached to this</p>

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EXHIBIT K

Response to Exhibit 23

My hand went up in defensive posture. Defendant Smart was in my personal space, and this was not for the first time. Reference my letter to Defendant Prickett Morgan Exhibit D where I sought relief from such behavior from Defendant Smart. As shown in my Complaint, dated May 8, 2018, Defendant Smart has pushed me from behind of for no apparent reason, gave me the sign of the cross and spear hand while standing on the clerk entry summons line (an I believe was removed from his duties at the Brooklyn South SMV TVB for approximately two weeks after such incident by Defendant Gelbstein), to get the summons for a day's hearings, got in my face several times in a threatening aggressive manner between June 20, 2012 and May 11, 2015 and when I asked what was the problem his response was "F--k you, you are the problem, and has admitted to taking money from one of my clients while at some point in time between December 11, 2011 to June 20, 2012 when I was required to take an anger management. He has admitted to taking \$80 owed from a client on a \$150 fee. He admits he took this money because he indicates that I authorized him to do so. An outright lie. He indicated that he gave this money to me. A lie. Simple and plain. During the time when Defendant Smart took this money between December 11, 2011 and June 20, 2012 I had no communication with the DMV and specifically with a security guard who worked at the DMV. I reported this abuse and theft to Defendant Gelbstein, he performed an investigation and let Defendant Smart remain at the Brooklyn TVB. After which time a series of threats and assaults began by Defendant Smart against my person at the Brooklyn DMV TVB which culminated in the incident of May 11, 2015. I have no motive for having any type of altercation with a security guard. I was there to represent clients and make my living. . **Where is the proof of "verbal threats of physical violence, and verbal abuse, including the use of ethnic slurs" conditions set to pursuant to the June 20, 2012 re-entry letter to my Office. There is none, I see no proof**

Response to Exhibit 24

Same as above

Response to Exhibit 25

Police report filed no action taken against me.

Response to Exhibit 26

Defendant Calvo's admits to having me removed and banned from the TVB for two incidents 1) the incident with Tahir on May 8, 2015, and 2) the incident with Smart on May 11, 2015. Please, look at the record. . **Where is the proof of "verbal threats of physical violence, and verbal abuse, including the use of ethnic slurs" conditions set to pursuant to the June 20, 2012 re-entry letter to my Office. There is none, I see no proof.**

EXHIBIT M

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1 M.H. Capogrosso
 2 I go in the morning, right.
 3 David would put up or somebody would put
 4 up the calendar. Most times it was David
 5 Smart and in the afternoon he would take
 6 it down. So I have to go to the calendar
 7 to look at the calendar because in the
 8 morning there's a lot of people and
 9 everybody's rushing around here and
 10 there. You have to know what courtroom
 11 to go in.
 12 So I'm walking to the
 13 calendar and he tells -- and I'm trying
 14 to go to the calendar and he tells me I
 15 deliberately walked into him. I mean
 16 that's just stupid. We are both working
 17 in the same location. We both have to go
 18 to the calendar. He has to hang it up
 19 and I have to look at it.
 20 I'm deliberately walking
 21 into a security? I have to work in this
 22 courthouse. I'm sorry. As a lawyer I
 23 have to go to the board and look at the
 24 docket to see where my case is being
 25 held. This is what I'm being accused of,

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1 M.H. Capogrosso
 2 deliberately walking into a guard.
 3 We work in the same
 4 building. We both have to go to the --
 5 to the board in the morning, to the
 6 docket. He has to hang it up. I got to
 7 look at it to see where my case is.
 8 That's all I have to say about this.
 9 Q So is Mr. Smart lying?
 10 A That I deliberately walked
 11 into him, yes, absolutely. I don't
 12 need --
 13 Q Why is he --
 14 A -- this beef with a security
 15 guard. I don't need a beef with a
 16 security guard at a courthouse that I'm
 17 trying to make a living at.
 18 Q And why do you think he's
 19 lying?
 20 A I don't know. Why would I
 21 deliberately walk into a security -- I'm
 22 going to the board to check the calendar.
 23 Q Did he have any animis
 24 towards you?
 25 A I told you, I reported to

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1 M.H. Capogrosso
 2 Gelbstein that he stole \$80 and a \$150
 3 fee and I found that out when I got back
 4 after taking my anger management course.
 5 I told you that. Cindy told --
 6 Q And --
 7 A And then I wrote to the
 8 motorist. The motorist confirmed it. I
 9 didn't go to the police because that's
 10 not what I do. I'm not going to get the
 11 guy arrested. Like maybe I should have
 12 looking back on this thing now.
 13 Q And would you have --
 14 A Gelbstein investigated it.
 15 Gelbstein admits to me that Smart said he
 16 took the money and he gave it to me,
 17 which is an absolute lie. First of all,
 18 I authorized nobody to take money on my
 19 behalf, collect money on my behalf. He
 20 had no authority to collect a fee on my
 21 behalf, this security guard, Smart and
 22 Gelbstein believes it, that he gave me
 23 the money. Gelbstein believes this.
 24 I told him the security
 25 guard had no authority to take the money,

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1 M.H. Capogrosso
 2 but he allows the security guard to stay
 3 and then the harassment started and I
 4 guess this is one of the ways he did it.
 5 He's saying I deliberately walked into
 6 him.
 7 Q And would it be correct to
 8 say that you feel that Mr. Smart had a
 9 grudge against you after this?
 10 A Absolutely, absolutely he
 11 had a grudge. He wouldn't let it go. If
 12 you steal, I'm going to report it. It's
 13 a theft. It's a theft. I am a lawyer.
 14 I am an officer of the court. You steal,
 15 you're not stealing from me. You're
 16 stealing from that cab driver who \$80 is
 17 a lot of money to.
 18 Q And do you believe that he
 19 wanted -- not he. Do you believe that
 20 Mr. Smart wanted to get rid of you --
 21 A Absolutely.
 22 Q -- because of this threat?
 23 A Absolutely. He wouldn't
 24 start the harassment. I told you all the
 25 incidents. He gets in my face. What's

<p style="text-align: right;">Page 426</p> <p>1 M.H. Capogrosso 2 MR. THOMPSON: Ms. 3 MacDonald -- 4 MS. REPORTER: Yes. Let's 5 take a five minute break. 6 MR. THOMPSON: Sure. That's 7 fine. We'll be back at 4:33. 8 MR. VIDEOGRAPHER: The time 9 is 4:28. We are off the record. 10 (A short recess was taken.) 11 MR. VIDEOGRAPHER: The time 12 is 4:33. We are on the record. 13 Q Mr. Capogrosso, you still 14 see that we have Exhibit 28 up? 15 A Yes. 16 MR. THOMPSON: And, 17 Ms. MacDonald, in case we didn't mark 18 it as Exhibit 28, let's please do 19 that. 20 Q You write in this letter 21 that upon completion of the anger 22 management course you were allowed to 23 practice law in all DMV courts on an 24 equal and unbiased standing with all 25 other attorneys in the DMV; is that</p>	<p style="text-align: right;">Page 428</p> <p>1 M.H. Capogrosso 2 would lead to an expulsion? 3 A Well, I don't know why they 4 threw that letter to me. Like I said, 5 they threw it at me two days before I was 6 to go back to the DMV. I agreed to 7 nothing but to take an anger management 8 course, that's it. 9 Q Well, once again -- 10 A I took the course. I should 11 be treated like every other lawyer, not 12 on a special, you know, special -- I 13 should be treated like every other 14 lawyer. That's all I agreed to was take 15 a course. 16 I wouldn't have agreed to 17 anything else if I knew this letter was 18 going to be thrown at me. 19 Q Mr. Capogrosso, you write 20 that "On numerous occasions your security 21 guard Dave Sparks told me to go F 22 myself." 23 A I didn't know his name at 24 that point. It's Smart, not Sparks. I 25 didn't know his last name.</p>
<p style="text-align: right;">Page 427</p> <p>1 M.H. Capogrosso 2 correct? 3 A That was my assumption, yes. 4 Q You say it was your 5 assumption. What do you mean by that? 6 A I'm a lawyer. I'm licensed 7 in the State of New York. I should be 8 treated like every other lawyer. I see 9 no reason why I shouldn't be. I should 10 be held to the same standard as every 11 other lawyer practicing, no different. I 12 took my course that I needed to take. I 13 should be held on the same standard as 14 every other lawyer. 15 Q But, in fact, you weren't 16 quite on the same standing because you 17 had been warned that any further incident 18 would lead to your expulsion; isn't that 19 true? 20 A Well, that was an improper 21 warning in my opinion. I should be 22 treated like any other lawyer, any other 23 lawyer. 24 Q So why was it improper for 25 DMV to warn you that further incidents</p>	<p style="text-align: right;">Page 429</p> <p>1 M.H. Capogrosso 2 Q How did you not know his 3 last name at this point? 4 A I didn't know it. 5 Q You had been interacting 6 with him for years you said. 7 A We all knew him by David. I 8 never talked to him about his last name. 9 I know people said S Smart something or 10 Smarks or something. I thought it was 11 Sparks. 12 I knew him -- I knew him as 13 the security guard, that's it. I know 14 his first name was David. 15 Q When you -- 16 A That's what I knew. 17 Q When you write, 18 Mr. Capogrosso, when you write "Will 19 provide proof upon request," what proof 20 would you have provided? 21 A I sent you all my letters, 22 all my -- all the complaints I filed with 23 Gelbstein. 24 Q So the proof would have been 25 your own letters to Judge Gelbstein?</p>